

No. 12283

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United States  
Court of Appeals  
For the Ninth Circuit.

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DOROTHY RAY HEALEY, MAX APPELMAN,  
ALVIN ABRAM AVERBUCK, ELVADOR  
G. GREENFIELD, and HORACE MORTON  
NEWMAN, JR.,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Appeal from the United States District Court  
for the Southern District of California  
Central Division

FILED

NOV 25 1949

PAUL P. O'BRIEN, CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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\* Page numbering appearing at bottom of page of original certified Transcript of Record.

In the United States District Court for the Southern District of California, Central Division

20743

September, 1948, Term

## GRAND JURY PRESENTMENT

In the Matter of:

WITNESS MAX APPELMAN

## CRIMINAL CONTEMPT

Section 401, Title 18, U.S. Code

The Grand Jury of the United States of America for the Southern District of California, Central Division, September Term, 1948, upon their oath present:

1. That on or about the 25th day of October, 1948, the Grand Jury for the United States of America duly empanelled and sworn, in the District Court of the United States for the Southern District of California, Central Division, at the September, 1948, Term, undertook an inquiry concerning certain employees of the United States Government, who had made false statements to an agency of the Government, in a matter within the jurisdiction of that agency and in connection with the investigation of their loyalty to the Government, in violation of old Section 80, Title 18, U.S. Code, Revised Title 18 U.S. Code, Section 1001, and other criminal laws of the United States. In pursuance of such inquiry,

it became necessary for said Grand Jury to inquire into and ascertain the official identity of one Dorothy Healey; the identity of the person or persons in charge of the books and records of the Los Angeles County Communist Party showing or pertaining to the membership of said organization.

Further the Grand Jury presents:

2. That Max Appelman was subpoenaed and appeared as a witness before said Grand Jury and on June 14, 1949, then and there refused to answer certain questions propounded to him, he claiming that the answers thereto may tend to incriminate him. [2]

3. Thereafter he appeared before the Honorable Peirson M. Hall, United States District Judge for the Southern District of California, on the 14th day of June, 1949, in open court where the claim of privilege of the witness Max Appelman was challenged by the Government. The Court then heard the questions propounded to the witness, and the answers he made to said questions.

4. The Court found that there was no present danger of such tendency to incriminate the said witness Max Appelman, and on June 14, 1949, ordered him to return before the Grand Jury on said June 14, 1949, and answer the said questions (upon which he claimed his aforesaid privilege), namely:

(1) "Do you know that Dorothy Healey is the organizational secretary of the Los Angeles County Committee of the Communist Party?

(2) "Do you know who the chairman of the Los Angeles County Communist Party is?



(3) "Do you know who the membership director of the Los Angeles County Committee of the Communist Party is?"

(4) "Do you know who the financial director of the Los Angeles County Committee of the Communist Party is?"

(5) "Do you know anything about the sections?"

(6) "Can you tell us whether each section has an organizer?"

(7) "Can you tell us the names of any of the section organizers of the Los Angeles County Communist Party?"

(8) "Can you tell us whether each section has a membership director?"

(9) "Where have you used that name (Matt Pelman)?"

(10) "Have you ever been to their offices in Los Angeles? (The Los Angeles County Committee of the Communist Party.)"

(11) "Did you know who was in charge when you were living here? (The Los Angeles County Committee of the Communist Party.)"

5. Further the Grand Jury presents that on the 14th day of June, 1949, the said Max Appelman was recalled as a witness before the said Grand Jury, at which time the said Grand Jury continued its inquiry in connection [3] with the matters heretofore described, and again each of the said questions hereinabove listed which the Court ordered him to answer, were asked of the said witness, who then persistently refused to answer said questions,



stating categorically that he refused to answer each of the questions on the ground that it would incriminate him.

6. That the said Grand Jurors, upon their oaths, present:

That the said Max Appelman, a witness before this Grand Jury, has given an obstructive, evasive and contumacious answer to each of the said questions propounded to him before said Grand Jury; that each of said questions was proper and material to the Grand Jury's inquiry and that no one or all of said questions would tend to incriminate the said witness of a violation of a federal offense; that the answer to each of said questions operated to shut off and block the instant inquiry, and block the search for truth; and the said witness has wilfully, deliberately and contumaciously obstructed the investigation of said Grand Jury in the matter hereinabove set forth by failing and refusing to answer each of the aforesaid proper and material questions put to him in the proceeding before the Grand Jury, which the Court ordered him to answer.

The Grand Jury therefore respectfully prays the Court to invoke its punitive power against said witness to maintain the proper functioning of the court and the Grand Jury and that it exercise such powers

so that the court's act may serve as a deterrant on other recalcitrant witnesses.

/s/ R. B. AHLSEDE,

Foreman.

/s/ JAMES M. CARTER,

U. S. Attorney.

/s/ M. H. GOLDSCHN,

Special Assistant to the  
Attorney General.

[Endorsed]: Filed June 14, 1949. [4]

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In the United States District Court for the Southern District of California, Central Division

20744

September, 1948, Term

GRAND JURY PRESENTMENT

In the Matter of:

WITNESS ALVIN ABRAM AVERBUCK

CRIMINAL CONTEMPT

Section 401, Title 18, U.S. Code

The Grand Jury of the United States of America for the Southern District of California, Central Division, September Term, 1948, upon their oath present:

1. That on or about the 25th day of October, 1948, the Grand Jury for the United States of

America duly empanelled and sworn, in the District Court of the United States for the Southern District of California, Central Division, at the September, 1948, Term, undertook an inquiry concerning certain employees of the United States Government, who had made false statements to an agency of the Government, in a matter within the jurisdiction of that agency and in connection with the investigation of their loyalty to the Government, in violation of old Section 80, Title 18, U.S. Code, Revised Title 18 U.S. Code, Section 1001, and other criminal laws of the United States. In pursuance of such inquiry, it became necessary for said Grand Jury to inquire into and ascertain the official identity of one Dorothy Healey; the identity of the person or persons in charge of the books and records of the Los Angeles County Communist Party showing or pertaining to the membership of said organization.

Further the Grand Jury presents:

2. That Alvin Abram Averbuck was subpoenaed and appeared as a witness before said Grand Jury and on May 26, 1949, then and there refused to answer certain questions propounded to him, he claiming that the answers thereto may tend to incriminate him. [5]

3. Thereafter he appeared before the Honorable Peirson M. Hall, United States District Judge for the Southern District of California, on the 9th day of June, 1949, in open court where the claim of privilege of the witness Alvin Abram Averbuck was challenged by the Government. The Court then heard the questions propounded to the witness, and

the answers he made to said questions. Thereafter, the said witness was offered an opportunity to be heard by the Court, privately in chambers as to how his privilege against self-incrimination would be violated by answering said questions, but the witness did not avail himself of the opportunity.

4. The Court found that there was no present danger of such tendency to incriminate the said witness Alvin Abram Averbuck, and on June 11, 1949, ordered him to return before the Grand Jury on June 14, 1949, and answer the said questions (upon which he claimed his aforesaid privilege), namely:

(1) What name is on the door (at 124 W. 6th St.)?

(2) Do you know Mrs. Dorothy Healey?

(3) Mr. Averbuck, do you know who has the books and records of the Los Angeles County Communist Party?

(4) Now, do you know how many divisions of the Los Angeles County Communist Party there are?

(5) Do you know the names of any of the chairmen of any of the divisions of the Los Angeles County Communist Party?

(6) Do you know the names of the membership or social organizers of any of the divisions of the Los Angeles County Communist Party?

(7) Do you know the names of the financial organizers or financial directors of any of the divisions of the Los Angeles County Communist Party?

(8) Do you know the names of the officials of any of the divisions of the Los Angeles County Communist Party that have the books and records of that division of the Communist Party? [6]

(9) Did you ever see Mrs. Dorothy Healey with any of the books or records of the Los Angeles County Communist Party?

(10) What did you say your occupation was? Organizer.

For whom?

5. Further the Grand Jury presents that on the 14th day of June, 1949, the said Alvin Abram Averbuck was recalled as a witness before the said Grand Jury, at which time the said Grand Jury continued its inquiry in connection with the matters heretofore described, and again each of the said questions hereinabove listed which the Court ordered him to answer, were asked of the said witness, who then persistently refused to answer said questions, stating categorically that he refused to answer each of the questions on the ground that it would incriminate him.

6. That the said Grand Jurors, upon their oaths, present:

That the said Alvin Abram Averbuck, a witness before this Grand Jury, has given an obstructive, evasive and contumacious answer to each of the said questions propounded to him before said Grand Jury; that each of said questions was proper and material to the Grand Jury's inquiry and that no one or all of said questions would tend to incriminate the said witness of a violation of a federal offense; that the answer to each of said questions

operated to shut off and block the instant inquiry, and block the search for truth; and the said witness has wilfully, deliberately and contumaciously obstructed the investigation of said Grand Jury in the matter hereinabove set forth by failing and refusing to answer each of the aforesaid proper and material questions put to him in the proceeding before the Grand Jury, which the Court ordered him to answer.

The Grand Jury therefore respectfully prays the Court to invoke its punitive power against said witness to maintain the proper functioning of the court and the Grand Jury and that it exercise such powers so that the court's act may serve as a deterrant on other recalcitrant witnesses.

/s/ R. B. AHLWEDE,

Foreman.

/s/ JAMES M. CARTER,

U. S. Attorney.

/s/ M. H. GOLDSCHNEIN,

Special Assistant to the  
Attorney General.

[Endorsed]: Filed June 14, 1949. [8]



In the United States District Court for the Southern District of California, Central Division

20745

September, 1948, Term

GRAND JURY PRESENTMENT

In the Matter of:

WITNESS ELVADOR G. GREENFIELD

CRIMINAL CONTEMPT

Section 401, Title 18, U.S. Code

The Grand Jury of the United States of America for the Southern District of California, Central Division, September Term, 1948, upon their oath present:

1. That on or about the 25th day of October, 1948, the Grand Jury for the United States of America duly empanelled and sworn, in the District Court of the United States for the Southern District of California, Central Division, at the September, 1948, Term, undertook an inquiry concerning certain employees of the United States Government, who had made false statements to an agency of the Government, in a matter within the jurisdiction of that agency and in connection with the investigation of their loyalty to the Government, in violation of old Section 80, Title 18, U.S. Code, Revised Title 18 U.S. Code, Section 1001, and other criminal laws of the United States. In pursuance of such inquiry, it became necessary for said Grand Jury to inquire

into and ascertain the official identity of one Dorothy Healey; the identity of the person or persons in charge of the books and records of the Los Angeles County Communist Party showing or pertaining to the membership of said organization.

Further the Grand Jury presents:

2. That Elvador G. Greenfield was subpoenaed and appeared as a witness before said Grand Jury and on May 26, 1949, then and there refused to answer certain questions propounded to him, he claiming that the answers thereto may tend to incriminate him. [9]

3. Thereafter he appeared before the Honorable Peirson M. Hall, United States District Judge for the Southern District of California, on the 9th day of June 1949, in open court where the claim of privilege of the witness Elvador G. Greenfield was challenged by the Government. The Court then heard the questions propounded to the witness, and the answers he made to said questions. Thereafter, the said witness was offered an opportunity to be heard by the Court, privately in chambers, as to how his privilege against self-incrimination would be violated by answering said questions, but the witness did not avail himself of the opportunity.

4. The Court found that there was no present danger of such tendency to incriminate the said witness Elvador G. Greenfield, and on June 11, 1949, ordered him to return before the Grand Jury on June 14, 1949, and answer the said questions (upon which he claimed his aforesaid privilege), namely:

(1) "Now, do you know who has the books and



records of the Los Angeles County Communist Party?

(2) "Was that the first time you ever saw her?  
(Dorothy Healey)

(3) "Does she have the books and records of the Los Angeles County Party, do you know?

(4) (Same question as #1)

(5) "Mr. Greenfield, do you know whether or not the Los Angeles County Communist Party is divided up into divisions?

(6) "Can you tell us how many divisions there are?

(7) "Will you tell us whether or not each division of the Communist Party of Los Angeles County keeps books of the membership of that division?

(8) "Will you tell us the names of the chairmen or organizers of these divisions?

(9) "Will you tell us whether or not these divisions each have a membership or social director?

(10) "Mr. Greenfield, we want to know the names of these people that hold these offices.

(11) "Well, does each division have a financial director? If so, will you give us their names?" [10]

5. Further the Grand Jury presents that on the 14th day of June, 1949, the said Elvador G. Greenfield was recalled as a witness before the said Grand Jury, at which time the said Grand Jury continued its inquiry in connection with the matters heretofore described, and again each of the said questions hereinabove listed which the Court ordered him to answer, were asked of the said witness, who then

persistently refused to answer said questions, stating categorically that he refused to answer each of the questions on the ground that it would incriminate him.

6. That the said Grand Jurors, upon their oaths, present:

That the said Elvador G. Greenfield, a witness before this Grand Jury, has given an obstructive, evasive and contumacious answer to each of the said questions propounded to him before said Grand Jury; that each of said questions was proper and material to the Grand Jury's inquiry and that no one or all of said questions would tend to incriminate the said witness of a violation of a federal offense; that the answer to each of said questions operated to shut off and block the instant inquiry, and block the search for truth; and the said witness has wilfully, deliberately and contumaciously obstructed the investigation of said Grand Jury in the matter hereinabove set forth by failing and refusing to answer each of the aforesaid proper and material questions put to him in the proceeding before the Grand Jury, which the Court ordered him to answer.

The Grand Jury therefore respectfully prays the Court to invoke its punitive power against said witness to maintain the proper functioning of the court and the Grand Jury and that it exercise such powers

so that the court's act may serve as a deterrant on other recalcitrant witnesses.

/s/ R. B. AHLSEWEDE,

Foreman.

/s/ JAMES M. CARTER,

U. S. Attorney.

/s/ M. H. GOLDSCHNEIN,

Special Assistant to the  
Attorney General.

[Endorsed]: Filed June 14, 1949. [11]

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In the United States District Court for the Southern District of California, Central Division

20746

September, 1948, Term

GRAND JURY PRESENTMENT

In the Matter of:

WITNESS DOROTHY RAY HEALEY

CRIMINAL CONTEMPT

Section 401, Title 18, U.S. Code

The Grand Jury of the United States of America for the Southern District of California, Central Division, September Term, 1948, upon their oath present:

1. That on or about the 25th day of October, 1948, the Grand Jury for the United States of

America duly empanelled and sworn, in the District Court of the United States for the Southern District of California, Central Division, at the September, 1948, Term, undertook an inquiry concerning certain employees of the United States Government, who had made false statements to an agency of the Government, in a matter within the jurisdiction of that agency and in connection with the investigation of their loyalty to the Government, in violation of old Section 80, Title 18, U.S. Code, Revised Title 18 U.S. Code, Section 1001, and other criminal laws of the United States. In pursuance of such inquiry, it became necessary for said Grand Jury to inquire into and ascertain the official identity of one Dorothy Healey; the identity of the person or persons in charge of the books and records of the Los Angeles County Communist Party showing or pertaining to the membership of said organization.

Further the Grand Jury presents:

2. That Dorothy Ray Healey was subpoenaed and appeared as a witness before said Grand Jury and on May 26, 1949, then and there refused to answer certain questions propounded to her, she claiming that the answers thereto may tend to incriminate her. [12]

3. Thereafter she appeared before the Honorable Peirson M. Hall, United States District Judge for the Southern District of California, on the 9th day of June, 1949, in open court where the claim of privilege of the witness Dorothy Ray Healey was challenged by the Government. The Court then heard the questions propounded to the witness, and

the answers she made to said questions. Thereafter, the said witness was offered an opportunity to be heard by the Court, privately in chambers as to how her privilege against self-incrimination would be violated by answering said questions, but the witness did not avail herself of the opportunity.

4. The Court found that there was no present danger of such tendency to incriminate the said witness Dorothy Ray Healey, and on June 11, 1949, ordered her to return before the Grand Jury on June 14, 1949, and answer the said questions (upon which she claimed her aforesaid privilege), namely:

(1) Will you tell us who you are organizer for?

(2) Now, Mrs. Healey, do you know who has the books and records of the Los Angeles County Communist Party?

(3) Can you tell us, Mrs. Healey, whether or not the Los Angeles County Communist Party has a chairman?

(4) Can you tell us whether or not it has an organizational secretary?

(5) Can you tell us whether or not it has an education director?

(6) Can you tell us whether or not it has a labor director?

(7) Can you tell us whether or not the membership or social director would have a list of the members of the Los Angeles County Communist Party?

(8) Can you tell us whether or not they have a financial director?

(9) Can you tell us whether or not the financial

director would have a record of the dues paid by the members of the Los Angeles County Communist Party? [13]

(10) Can you tell us who has the record showing the dues paid by the membership of the Los Angeles County Communist Party?

(11) Now, Mrs. Healey, can you tell us the name of anyone who can give us that information I just asked you?

(12) But that information is available, is it not?

(13) Can you tell us how many divisions there are in the Los Angeles or the Los Angeles County Communist Party?

(14) Can you tell us how many sections there are in the divisions?

(15) Can you tell us how many clubs there are?

(16) Can you tell us how many squads there are?

(17) Mrs. Healey, can you tell us who is chairman of the eastern division of the Los Angeles County Communist Party?

(18) Can you tell us who is the chairman of the midtown division of the Los Angeles County Communist Party?

(19) Can you tell us who is the head of the southern division of the Los Angeles County Communist Party?

(20) Can you tell us who is the head of the western division of the Los Angeles County Communist Party?

(21) Can you tell us who is the head of the



youth division of the Los Angeles County Communist Party?

(22) Can you tell us who is the head of the student section of that youth division?

(23) Mrs. Healey, each division has a chairman, does it not?

(24) Or sometimes called an organizer?

(25) Does each division have an organizational secretary?

(26) Does each have a membership or social secretary?

(27) Does each have a membership or social director?

(28) Does the membership or social director of each division have a list of the membership of that division?

(29) Does each division have a financial director?

(30) Do not the membership director and the financial director have the books and records of the Los Angeles County Communist Party? [14]

(31) Same as question No. 2.

(32) Now, that statement with reference to Mrs. Dorothy Ray Healey, the organizational secretary of the Los Angeles Communist Party, is that designation correct with reference to you?

(33) What is your business address?

(34) You are in charge of those records, are you not?

No.

Who is?

(35) Are these records in the place of business where you work?

(36) Do you know who does have control over the records?

5. Further the Grand Jury presents that on the 14th day of June, 1949, the said Dorothy Ray Healey was recalled as a witness before the said Grand Jury, at which time the said Grand Jury continued its inquiry in connection with the matters heretofore described, and again each of the said questions hereinabove listed which the Court ordered her to answer, were asked of the said witness, who then persistently refused to answer said questions, stating categorically that she refused to answer each of the questions on the ground that it would incriminate her.

6. That the said Grand Jurors, upon their oaths, present:

That the said Dorothy Ray Healey, a witness before this Grand Jury, has given an obstructive, evasive and contumacious answer to each of the said questions propounded to her before said Grand Jury; that each of said questions was proper and material to the Grand Jury's inquiry and that no one or all of said questions would tend to incriminate the said witness of a violation of a federal offense; that the answer to each of said questions operated to shut off and block the instant inquiry, and block the search for truth; and the said witness has wilfully, deliberately and contumaciously obstructed the investigation of said Grand Jury in



the matter hereinabove set forth by failing and refusing to answer each of the aforesaid proper and material questions put to her in the proceeding before the Grand Jury, which the Court ordered her to answer. [15]

The Grand Jury therefore respectfully prays the Court to invoke its punitive power against said witness to maintain the proper functioning of the court and the Grand Jury and that it exercise such powers so that the court's act may serve as a deterrant on other recalcitrant witnesses.

/s/ R. B. AHLWEDE,

Foreman.

/s/ JAMES M. CARTER,

U. S. Attorney.

/s/ M. H. GOLDSCHNID,

Special Assistant to the  
Attorney General.

[Endorsed]: Filed June 14, 1949. [16]

In the United States District Court for the  
Southern District of California, Central Division

20747

September, 1948, Term

## GRAND JURY PRESENTMENT

In the Matter of:

WITNESS HORACE MORTON NEWMAN, Jr.

## CRIMINAL CONTEMPT

Section 401, Title 18, U. S. Code

The Grand Jury of the United States of America for the Southern District of California, Central Division, September Term, 1948, upon their oath present:

1. That on or about the 25th day of October, 1948, the Grand Jury for the United States of America, duly empanelled and sworn, in the District Court of the United States for the Southern District of California, Central Division, at the September, 1948,, Term, undertook an inquiry concerning certain employees of the United States Government, who had made false statements to an agency of the Government, in a matter within the jurisdiction of that agency and in connection with the investigation of their loyalty to the Government, in violation of old Section 80, Title 18, U. S. Code, Revised Title 18 U. S. Code, Section 1001, and other criminal laws of the United States. In pursuance of such inquiry, it became necessary for said Grand

Jury to inquire into and ascertain the official identity of one Dorothy Healey; the identity of the person or persons in charge of the books and records of the Los Angeles County Communist Party showing or pertaining to the membership of said organization.

Further the Grand Jury presents:

2. That Horace Morton Newman, Jr., was subpoenaed and appeared as a witness before said Grand Jury and on April 21, 1949 and May 26, 1949, then and there refused to answer certain questions propounded to him, he claiming that the answers thereto may tend to incriminate him. [17]

3. Thereafter he appeared before the Honorable Peirson M. Hall, United States District Judge for the Southern District of California, on the 9th day of June, 1949, in open court where the claim of privilege of the witness Horace Morton Newman, Jr., was challenged by the Government. The Court then heard the questions propounded to the witness, and the answers he made to said questions. Thereafter, the said witness was offered an opportunity to be heard by the Court, privately in chambers as to how his privilege against self-incrimination would be violated by answering said questions, but the witness did not avail himself of the opportunity.

4. The Court found that there was no present danger of such tendency to incriminate the said witness Horace Morton Newman, Jr., and on June 11, 1949, ordered him to return before the Grand Jury on June 14, 1949, and answer the said ques-

tions (upon which he claimed his aforesaid privilege), namely:

(1) "Do you know Dorothy Healey?

(2) "Do you know her office address?

(3) "Do you know her business or occupation?

(4) "Now, what is your business address?

(5) "Who are you educational director for?

(6) "Do you know who the financial director is of the eastern division of the Los Angeles County Communist Party?

(7) "Do you know who the membership or social director is of the eastern division of the Los Angeles County Communist Party?

(8) "Now, who is the chairman of the Los Angeles County Communist Party?

(9) "Who is the organizational secretary of the Los Angeles County Communist Party?

(10) "Now, do you know whether or not the Los Angeles County Communist Party has a labor director?

(10a) "Do you know whether or not they have a membership or social director?

(11) "Do you know whether or not the membership or social director has a list of the membership of the Los Angeles County Communist Party? [18]

(12) "Do you know whether or not the Los Angeles County Communist Party has a financial director?

(13) "Do you know whether or not the financial director keeps an account of the dues collected from the members of the Los Angeles County Communist Party?

(14) "Do you report to anybody who you see?"

(15) "Do you know Dorothy Healey is the organizational secretary of the Communist Party of Los Angeles County?"

(16) "Do you know whether Dorothy Healey has in her possession or under her control any books and records of the Communist Party of Los Angeles County?"

5. Further the Grand Jury presents that on the 14th day of June, 1949, the said Horace Morton Newman, Jr., was recalled as a witness before the said Grand Jury, at which time the said Grand Jury continued its inquiry in connection with the matters heretofore described, and again each of the said questions hereinabove listed which the Court ordered him to answer, were asked of the said witness, who then persistently refused to answer said questions, stating categorically that he refused to answer each of the questions on the ground it would incriminate him.

6. That the said Grand Jurors, upon their oaths, present:

That the said Horace Morton Newman, Jr., a witness before this Grand Jury, has given an obstructive, evasive and contumacious answer to each of the said questions propounded to him before said Grand Jury; that each of said questions was proper and material to the Grand Jury's inquiry and that no one or all of said questions would tend to incriminate the said witness of a violation of a federal offense; that the answer to each of said questions

operated to shut off and block the instant inquiry, and block the search for truth; and the said witness has wilfully, deliberately and contumaciously obstructed the investigation of said Grand Jury in the matter hereinabove set forth by failing and refusing to answer each of the aforesaid proper and material questions put to him in the proceeding before the Grand Jury, which the Court ordered him to [19] answer.

The Grand Jury therefore respectfully prays the Court to invoke its punitive power against said witness to maintain the proper functioning of the court and the Grand Jury and that it exercise such powers so that the court's act may serve as a deterrent on other recalcitrant witnesses.

/s/ R. B. AHLWEDE,

Foreman.

/s/ JAMES M. CARTER,

United States Attorney.

/s/ M. H. GOLDSCHNEIN,

Special Assistant to the  
Attorney General.

[Endorsed]: Filed June 14, 1949. [20]

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At a stated term, to wit: The February Term. A.D. 1949, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los



Angeles on Tuesday the 14th day of June in the year of our Lord one thousand nine hundred and forty-nine.

Present: The Honorable Peirson M. Hall,  
District Judge.

U.S.A. vs. Max Appelman	No. 20,743-Cr.
U.S.A. vs. Alvin Abram Averbuck	No. 20,744-Cr.
U.S.A. vs. Elvador G. Greenfield	No. 20,745-Cr.
U.S.A. vs. Dorothy Ray Healey	No. 20,746-Cr.
U.S.A. vs. Horace Morton Newman, Jr.	No. 20,747-Cr.

(Same Order in Each Case:)

This cause coming before the Court; James M. Carter, U. S. Att'y, appearing as counsel for Gov't, together with Max H. Goldscheine, Spec. Ass't to Att'y Gen'l, and defendant being present with his attorneys Ben Margolis and John T. McTernan, Esqs.;

Attorney Carter informs the Court that the Grand Jury desires to present a Presentment to the Court of Criminal Contempt of defendant; whereupon, a copy of said Presentment is delivered to counsel for the defendant, and the defendant being now ready for arraignment and plea, defendant states his true name is as set forth in the Presentment, is informed of his constitutional rights to be represented by counsel and a trial by the Court, and Attorney Margolis thereupon waiving reading of the Presentment, defendant enters his plea of not guilty as charged.

Attorney Goldschein moves the Court that the trial of this case be set for June 16, 1949, 10 a.m., which motion is opposed by Attorney Margolis on the grounds that counsel have had no time to prepare for trial, and on the further grounds that briefs are due by June 22, 1949, in the cases of a similar character already on appeal.

The Court thereupon orders this cause set for trial June 23, 1949, 10 a.m., and that bond of defendant be exonerated, if bond is posted and on file, and thereupon fixes bond of defendant at \$4,000, and orders that defendant stand committed until said bond is posted. [21]

The Clerk of the Court, Edmund L. Smith, is hereby directed and ordered to remain in the Clerk's Office until 6:30 p.m. today, which is the extent of the time allowed defendant in which to post said bond. [22]

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At a stated term, to wit: The February Term. A.D. 1949, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Thursday the 23rd day of June in the year of our Lord one thousand nine hundred and forty-nine.

Present: The Honorable Peirson M. Hall,  
District Judge.

U.S.A. vs. Max Appelman

No. 20,743-Cr.



U.S.A. vs. Alvin Abram Averbuck	No. 20,744-Cr.
U.S.A. vs. Elvador G. Greenfield	No. 20,745-Cr.
U.S.A. vs. Dorothy Ray Healey	No. 20,746-Cr.
U.S.A. vs. Horace Morton Newman, Jr.	No. 20,747-Cr.

For trial; James M. Carter, U. S. Att'y, and Max H. Goldscheim, Spec. Ass't to Att'y Gen'l, appearing as counsel for Gov't; Ben Margolis, Esq., appearing as counsel for defendants, who are present on bond;

E. L. Drummond is called, sworn, and testifies for Gov't. Gov't rests.

The Court takes judicial notice that the Grand Jury investigating the loyalty of certain Gov't employees has been ordered to continue its investigation by an order extending its term of service, also the proceedings had before it and the Court, and that the order was made directing the respondents, now defendants, to appear before the Grand Jury and give answer to certain questions asked by the Grand Jury on June 14, 1949.

On motion of Attorney Margolis, it is ordered that all previous proceedings had in connection with any of these witnesses, now defendants, before this Court, are deemed to be in evidence, including defensive material, rulings, and objections. At 11:05 a.m. court recesses.

At 11:21 a.m. court reconvenes herein and all being present as before, including defendants and counsel for both sides, Attorney Margolis offers a pamphlet entitled "100 Things You Should Know

About Communism in the U.S.A.” as defendants’ exhibit.

On the Court’s own motion, and there being no objections thereto, the Court orders that these causes are consolidated for purpose of this trial.

The Court, thereupon, orders the said exhibit marked Defendants’ Exhibit A for identification.

Attorney Margolis now offers Defendants’ Exhibit B in evidence, and it is ordered that the said exhibit be, and it is marked for identification.

Richard B. Hood is called, sworn, and testifies for defendants.

At 11:50 a.m. Court declares a recess to 2 p.m. At 2:05 p.m. court reconvenes herein and all being present as before, including defendants and counsel, Attorney Margolis informs the Court of the substance of the testimony of A. L. Wirin, were he called as a witness for the defendant, said Witness Wirin being to ill to be present, which offer is accepted by Attorney Carter with reservations to move to strike.

Attorney Margolis thereupon moves for admittance into evidence of Defendants’ Exhibit B for identification, which is objected to by Attorney Carter.

The Court, after due consideration of said exhibits, ordered Defendants’ Exhibit B admitted into evidence. Both sides rest.

Government waives opening argument. Attorney Margolis argues to the Court.

At 2:35 p.m. court recesses. At 2:47 p.m. court

reconvenes herein and all being present as before, including defendants and counsel, Attorney Margolis argues further. At 3:30 p.m. court recesses.

At 3:50 p.m. court reconvenes herein and all being present as before, including defendants and counsel, the Court orders these consolidated causes continued to 10 a.m., June 24, 1949, for further trial. [24]

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At a stated term, to wit: The February Term. A.D. 1949, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Friday the 24th day of June in the year of our Lord one thousand nine hundred and forty-nine.

Present: The Honorable Peirson M. Hall,  
District Judge.

U.S.A. vs. Max Appelman	No. 20,743-Cr.
U.S.A. vs. Alvin Abram Averbuck	No. 20,744-Cr.
U.S.A. vs. Elvador G. Greenfield	No. 20,745-Cr.
U.S.A. vs. Dorothy Ray Healey	No. 20,746-Cr.
U.S.A. vs. Horace Morton Newman, Jr.	No. 20,747-Cr.

For further trial; James M. Carter, U. S. Attorney, and Max H. Goldscheine, Spec. Ass't to Att'y Gen'l, appearing as counsel for Gov't; Ben Margolis, Esq., appearing as counsel for defendants,

who are all present on bond; at 10:32 a.m. court convenes in this case, and the Court informs counsel that it has had photostatic copies made of certain executive orders of the President of The United States of America, enumerating each one, and describing each for the purpose of the record.

Attorney Margolis resumes his argument in behalf of the defendants.

At 11:30 a.m. court recesses. At 11:50 a.m. court reconvenes herein, and all being present as before, including defendants and counsel for both sides, and, it appearing that Government counsel cannot conclude his argument before noon, at 11:55 a.m. Court declares a recess herein until 2 p.m.

At 2:15 p.m. court reconvenes herein, and all being present as before, including defendants and counsel for both sides, Attorney Goldschein argues in behalf of the Government. Attorney Margolis replies. Both sides rest.

Court orders this cause continued to June 28, 1949, 2 p.m., for further trial. [25]

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At a stated term, to wit: The February Term. A.D. 1949, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 28th day of June in the year of our Lord one thousand nine hundred and forty-nine.

Present: The Honorable Peirson M. Hall,  
District Judge.

U.S.A. vs. Max Appelman	No. 20,743-Cr.
U.S.A. vs. Alvin Abram Averbuck	No. 20,744-Cr.
U.S.A. vs. Elvador G. Greenfield	No. 20,745-Cr.
U.S.A. vs. Dorothy Ray Healey	No. 20,746-Cr.
U.S.A. vs. Horace Morton Newman, Jr.	No. 20,747-Cr.

(Same Order in Each Case:)

For further trial; James M. Carter, U. S. Att'y, and Max H. Goldscheine, Spec. Ass't to Att'y Gen'l, appearing as counsel for Gov't; Ben Margolis, Esq., appearing as counsel for defendants, who are present on bond;

The Court, after being fully advised in the premises herein, and after due consideration of the argument of counsel and the evidence adduced, both oral and documentary, finds the defendant guilty of contempt.

Max Appelman, defendant, makes a statement.

Attorney Margolis waives reference to Prob. Officer for investigation and report. Court pronounces judgment upon the said defendant, Max Appelman, as follows: \* \* \*

Attorney Margolis moves that bail be fixed pending appeal, and ruling is deferred thereon.

Alvin Abram Averbuck, defendant, makes a statement. Attorney Margolis waives reference to Prob. Officer for investigation and report. Court pronounces judgment upon Defendant Averbuck as follows: \* \* \*

Attorney Margolis moves for stay of execution of commitment for non-payment of fine and for fixing bail pending appeal. The Court denies said motion for stay of execution of commitment for non-payment of said fine and orders Defendant Averbuck committed. [25-a]

Elvador G. Greenfield, defendant, makes a statement. Attorney Margolis waives reference to Prob. Officer for investigation and report. Court pronounces judgment upon Defendant Greenfield as follows: \* \* \*

Attorney Margolis moves that bail be fixed pending appeal, and the Court denies the said motion for the present without prejudice to a renewal thereof.

At 4 p.m. court recesses. At 4:26 p.m. court reconvenes herein and all being present as before, including defendants; Attorney Margolis presents a receipt in payment of fine imposed upon Defendant Averbuck, following which

The Court thereupon orders Defendant Averbuck released from the custody of the U. S. Marshal.

Horace Morton Newman, Jr., defendant, makes a statement. Attorney Margolis waives reference to Prob. Officer for investigation and report. Court pronounces judgment upon Defendant Newman, Jr., as follows: \* \* \*

Attorney Margolis moves that bail be fixed pending appeal, and Court defers ruling thereon.

Dorothy Ray Healey, defendant, makes a statement. The Court makes a statement. Attorney



Margolis and Defendant Healey waive reference to Prob. Officer for investigation and report. Court pronounces judgment upon Defendant Healey as follows: \* \* \*

Attorney Margolis moves the Court to fix bail pending appeal, and Court denies said motion for the present without prejudice to its renewal.

At 5:10 p.m. court recesses for ten minutes. At 5:25 p.m. court reconvenes herein and all defendants being present, Attorney Margolis moves that bail be fixed for each defendant pending appeal, and Court denies said motion and orders each defendant forthwith committed to the custody of U. S. Marshal. [26]

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District Court of the United States for the  
Southern District of California, Central Division

No. 20743—Criminal

UNITED STATES OF AMERICA

vs.

MAX APPELMAN

### JUDGMENT AND COMMITMENT

On this 28th day of June, 1949, came the attorney for the government and the defendant appeared in person and by counsel, Ben Margolis, Esq., and the Court having previously taken the matter under submission, did find the defendant guilty of contempt in refusing to answer each and any and

every one of the questions set forth in the presentment; now, therefore,

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a finding of guilty of the offense of criminal contempt in violation of Section 401, Title 18, U. S. Code, for the defendant's refusal to answer each and any and every and all of the questions set forth in the Grand Jury presentment, said violation being as charged in the Grand Jury presentment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of one (1) year in an institution of the type to be selected by the Attorney General.

It Is Adjudged that the bond of the defendant be, and it hereby is, exonerated.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ PEIRSON M. HALL,

United States District Judge.

[Endorsed]: Filed June 28, 1949. [27]

District Court of the United States for the  
Southern District of California, Central Division

No. 20744—Criminal

UNITED STATES OF AMERICA

vs.

ALVIN ABRAM AVERBUCK

### JUDGMENT AND COMMITMENT

On this 28th day of June, 1949, came the attorney for the government and defendant appeared in person and by counsel, Ben Margolis, Esq., and the Court having previously taken the matter under submission, did find the defendant guilty of contempt in refusing to answer each and any and every one of the questions set forth in the presentment; now, therefore,

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a finding of guilty of the offense of criminal contempt in violation of Section 401, Title 18, U. S. Code, for the defendant's refusal to answer each and any and every and all of the questions set forth in the Grand Jury presentment, said violation being as charged in the Grand Jury presentment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby ordered to pay a fine unto the United States of America in the sum of \$10.00, and stand committed until paid.

It Is Adjudged that the bond of the defendant be, and it hereby is, exonerated.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ PEIRSON M. HALL,

United States District Judge.

/s/ EDMUND L. SMITH,

Clerk.

[Endorsed]: Filed June 28, 1949. [28]

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District Court of the United States for the  
Southern District of California, Central Division

No. 20745—Criminal

UNITED STATES OF AMERICA

vs.

ELVADOR G. GREENFIELD

### JUDGMENT AND COMMITMENT

On this 28th day of June, 1949, came the attorney for the government and the defendant appeared in

person and by counsel, Ben Margolis, Esq., and the Court having previously taken the matter under submission, did find the defendant guilty of contempt in refusing to answer each and any and every one of the questions set forth in the presentment; now, therefore,

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a finding of guilty of the offense of criminal contempt in violation of Section 401, Title 18, U. S. Code, for the defendant's refusal to answer each and any and every and all of the questions set forth in the Grand Jury presentment, said violation being as charged in the Grand Jury presentment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court.

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of one (1) year in an institution of the type to be selected by the Attorney General.

It Is Adjudged that the bond of the defendant be, and it hereby is, exonerated.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and

that the copy serve as the commitment of the defendant.

/s/ PEIRSON M. HALL,

United States District Judge.

[Endorsed]: Filed June 28, 1949. [29]

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District Court of the United States for the  
Southern District of California, Central Division .

No. 20746—Criminal

UNITED STATES OF AMERICA

vs.

DOROTHY RAY HEALEY

### JUDGMENT AND COMMITMENT

On this 28th day of June, 1949, came the attorney for the government and the defendant appeared in person and by counsel, Ben Margolis, Esq., and the Court having previously taken the matter under submission, did find the defendant guilty of contempt in refusing to answer each and any and every one of the questions set forth in the presentment; now, therefore,

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a finding of guilty of the offense of criminal contempt in violation of Section 401, Title 18, U. S. Code, for the defendant's refusal to answer each and any and



every and all of the questions set forth in the Grand Jury presentment, said violation being as charged in the Grand Jury presentment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of eighteen (18) months in an institution of the penitentiary type to be selected by the Attorney General.

It Is Adjudged that the bond of the defendant be, and it hereby is, exonerated.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ PEIRSON M. HALL,

United States District Judge.

[Endorsed]: Filed June 28, 1949. [30]

District Court of the United States for the  
Southern District of California, Central Division

No. 20747—Criminal

UNITED STATES OF AMERICA

vs.

HORACE MORTON NEWMAN, JR.

### JUDGMENT AND COMMITMENT

On this 28th day of June, 1949, came the attorney for the government and the defendant appeared in person and by counsel, Ben Margolis, Esq., and the Court having previously taken the matter under submission, did find the defendant guilty of contempt in refusing to answer each and any and every one of the questions set forth in the presentment; now, therefore,

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a finding of guilty of the offense of criminal contempt in violation of Section 401, Title 18, U. S. Code, for the defendant's refusal to answer each and any and every and all of the questions set forth in the Grand Jury presentment, said violation being as charged in the Grand Jury presentment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of one (1) year in an institution of the type to be selected by the Attorney General.

It Is Adjudged that the bond of the defendant be, and it hereby is, exonerated.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ PEIRSON M. HALL,

United States District Judge.

[Endorsed]: Filed June 28, 1949. [31]

In the United States District Court for the  
Southern District of California, Central Division

No. 20743—Crim.

September, 1948, Term

Criminal Contempt, Section 401, Title 18,  
U. S. Code

### GRAND JURY PRESENTMENT

In the Matter of:  
WITNESS MAX APPELMAN

### NOTICE OF APPEAL

Notice Is Hereby Given that Max Appelman, residing at San Francisco, California, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment and sentence of the United States District Court for the Southern District of California, Central Division, adjudging him in contempt (criminal) of said Court, rendered and entered on June 28, 1949, and committing him to the custody of the Attorney General for a period of one year; said Max Appelman is presently confined, pursuant to said judgment and sentence, in the County Jail of the County of Los Angeles, State of California.

Dated: June 29, 1949.

MARGOLIS and McTERNAN,  
By /s/ BEN MARGOLIS,  
Attorneys for Appellant.

[Endorsed]: Filed June 29, 1949. [32]

In the United States District Court for the  
Southern District of California, Central Division

No. 20744—Crim.

September, 1948, Term

Criminal Contempt

Section 401, Title 18, U. S. Code

GRAND JURY PRESENTMENT

In the Matter of:

WITNESS ALVIN ABRAM AVERBUCK

NOTICE OF APPEAL

Notice Is Hereby Given that Alvin Abram Averbuck, residing at 2105 Cliff Road, Los Angeles, California, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment and sentence of the United States District Court for the Southern District of California, Central Division, adjudging him in contempt (criminal) of said Court, rendered and entered on June 28, 1949, and imposing upon him a fine of Ten Dollars (\$10.00).

Dated: June 29, 1949.

MARGOLIS and McTERNAN,

By /s/ BEN MARGOLIS,

Attorneys for Appellant.

[Endorsed]: Filed June 29, 1949. [33]

In the United States District Court for the  
Southern District of California, Central Division  
No. 20745—Crim.

September, 1948, Term  
Criminal Contempt  
Section 401, Title 18, U. S. Code

## GRAND JURY PRESENTMENT

In the Matter of:  
WITNESS ELVADOR G. GREENFIELD

## NOTICE OF APPEAL

Notice Is Hereby Given that Elvador G. Greenfield, residing at 5866 South Broadway, Los Angeles, California, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment and sentence of the United States District Court for the Southern District of California, Central Division, adjudging him in contempt (criminal) of said Court, rendered and entered on June 28, 1949, and committing him to the custody of the Attorney General for a period of one year; said Elvador G. Greenfield is presently confined, pursuant to said judgment and sentence, in the County Jail of the County of Los Angeles, State of California.

Dated: June 29, 1949.

MARGOLIS and McTERNAN,  
By /s/ BEN MARGOLIS,  
Attorneys for Appellant.

[Endorsed]: Filed June 29, 1949. [34]



In the United States District Court for the  
Southern District of California, Central Division

No. 20746—Crim.

September, 1948, Term

Criminal Contempt

Section 401, Title 18, U. S. Code

GRAND JURY PRESENTMENT

In the Matter of:

WITNESS DOROTHY RAY HEALEY

NOTICE OF APPEAL

Notice Is Hereby Given that Dorothy Ray Healey, residing at 1733 West 84th Street, Los Angeles, California, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment and sentence of the United States District Court for the Southern District of California, Central Division, adjudging her in contempt (criminal) of said Court, rendered and entered on June 28, 1949, and committing her to the custody of the Attorney General for a period of eighteen months; said Dorothy Ray Healey is presently confined, pursuant to said judgment and sentence, in the County Jail of the County of Los Angeles, State of California.

Dated: June 29, 1949.

MARGOLIS and McTERNAN,

By /s/ BEN MARGOLIS,

Attorneys for Appellant.

[Endorsed]: Filed June 29, 1949. [35]

In the United States District Court for the  
Southern District of California, Central Division

No. 20747—Crim.

September, 1948, Term

Criminal Contempt

Section 401, Title 18, U. S. Code

## GRAND JURY PRESENTMENT

In the Matter of:

WITNESS HORACE MORTON NEWMAN, Jr.

## NOTICE OF APPEAL

Notice Is Hereby Given that Horace Morton Newman, Jr., residing at 4327 Tourmaline Avenue, Los Angeles, California, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment and sentence of the United States District Court for the Southern District of California, Central Division, adjudging him in contempt (criminal) of said Court, rendered and entered on June 28, 1949, and committing him to the custody of the Attorney General for a period of one year; said Horace Morton Newman, Jr. is presently confined, pursuant to said judgment and sentence, in the County Jail of the County of Los Angeles, State of California.

Dated: June 29, 1949.

MARGOLIS and McTERNAN,

By /s/ BEN MARGOLIS,

Attorneys for Appellant.

[Endorsed]: Filed June 29, 1949. [36]

In the United States District Court for the  
Southern District of California, Central Division

No. 20746—Crim.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

DOROTHY RAY HEALEY,  
Defendant.

No. 20747—Crim.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

HORACE MORTON NEWMAN, JR.,  
Defendant.

No. 20745—Crim.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

ELVADOR G. GREENFIELD,  
Defendant.

No. 20743—Crim.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

MAX APPELMAN,  
Defendant.

No. 20744—Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALVIN ABRAM AVERBUCK,

Defendant.

## STATEMENT OF POINTS UPON WHICH APPELLANTS INTEND TO RELY ON APPEAL

1. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that under the Fifth Amendment to the Constitution of the United States appellants had the right to refuse to answer said questions on the grounds that answers to said questions might tend to incriminate them.

2. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that said questions and said orders of the Court were directed to possible membership in or affiliation with, the Communist Party, a political organization, and said questions and the respective orders of the Court interfered with, obstructed, coerced and abridged their exercise of the rights and duties of political expression through speech, press, assembly,

association and petition, in contravention of the First Amendment to the Constitution of the United States.

3. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that said questions and said orders of the Court were directed to the compulsory disclosure [38] by appellants of their association or affiliation, or the absence thereof, with the Communist Party, a political organization, or officers or members thereof, and thereby violated the right of each appellant to privacy and silence in such matters, in contravention of the First, Fourth and Fifth Amendments to the Constitution of the United States.

4. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that said questions and said orders of the Court were directed to the compulsory disclosure by appellants of their association or affiliation, or the absence thereof, with the Communist Party, a political organization, or officers or members thereof, and thereby interfered with, obstructed, coerced and abridged their exercise of their governmental powers reserved to the people under the Ninth and Tenth Amendments to the Constitution of the United States.

5. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in sentencing appellants for contempt for their refusal to answer said questions in that said Grand Jury was not conducting a bona fide investigation but was carrying out a scheme, plan and design to harass and annoy appellants because they were believed to be members of the Communist Party, a political organization, and discriminately to apply the laws of the United States against appellants in such a manner as to impose punishment upon them solely and exclusively for the reason that they were believed to be members of said Communist Party.

6. The Court below erred in refusing to hear and to take evidence upon the appellants' challenge to the composition and selection of the Grand Jury.

7. The Court below erred and denied appellants due process of law in contravention of the Fifth Amendment to the Constitution of the [39] United States in refusing to receive evidence upon, and refusing offers to prove facts supporting each of the points specified above.

8. The Court below erred and denied appellants due process of law in contravention of the Fifth Amendment to the Constitution of the United States in quashing a subpoena directed to Tom C. Clark, Attorney General of the United States.

Dated: July 13, 1949.

MARGOLIS and McTERNAN,

By /s/ JOHN T. McTERNAN,

Attorneys for Appellants.

[Endorsed]: Filed June 14, 1949.



United States Court of Appeals,  
Ninth Circuit

[Title of Causes.]

APPLICATION FOR BAIL

Before: Denman,  
Chief Judge:

Appellants have been adjudged guilty of criminal contempt for refusal to answer certain questions propounded before the Grand Jury of the [42] United States District Court for the Southern District of California. The district court has denied them bail pending appeal. They move me as Chief Judge of this court for release on bail.

A hearing was had, the appellants and the United States being represented by counsel. Mr. A. L. Wirin appeared as *amicus curiae*.

Both parties agree that as such Chief Judge I have the power to release on bail under Rule 46(a) (2) of the Federal Rules of Criminal Procedure.

The motion is based upon appellants' contention that there is a justiciable question for the determination of this court of appeals as to whether the appellants, claiming the constitutional right to refuse to answer, are guilty of criminal contempt in their refusal to answer.

After a hearing lasting for some two hours, and a study of the questions by the Grand Jury and the proceedings before the district court, I hold that

there is a justiciable contention as to appellants' right to refuse to answer each question, which must be resolved by the court of appeals.

The prayer of the appellants is granted and the district court and custodian of appellants is ordered to release each of appellants upon his or her depositing with the United States District Court [43] for the Southern District of California bail in the amount of \$500.00 in cash or a bond for that amount in the form required by the rules of that court. The Clerk is ordered to issue a mandate hereon forthwith.

WILLIAM DENMAN,  
Chief Judge, United States Court of Appeals,  
Ninth Circuit.

[Endorsed]: Filed June 29, 1949.

PAUL P. O'BRIEN  
Clerk.

A True Copy,

Attest, June 29, 1949.

/s/ PAUL P. O'BRIEN,  
Clerk. [44]

## CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 52, inclusive, contain the original Presentment of the Grand Jury, Judgment and Commitment and Notice of Appeal in each of cases Nos. 20743 to 20747, inclusive, certified copy of Order of Judge Denman of the United States Court of Appeals for the Ninth Circuit, Designation of Contents of Record on Appeal, Counter-Designation of Contents of Record on Appeal and Statement of Points Upon Which Appellants Intend to Rely and full, true and correct copies of minute orders entered June 14, 23, 24, and 28, 1949 which, together with original respondents' exhibits A to F, inclusive, at the hearing on June 9, 1949, original government's exhibits 1 to 7, inclusive, at the hearing on June 10, 1949, original defendants' exhibits A and B at the hearing on June 23, 1949; copy of reporter's transcript of proceedings on June 14, 1949, in cause No. 8873-PH-Civil, of proceedings on June 9, 10, and 11, 1949 and May 26, 1949 in Re: Investigation by the Grand Jury Concerning Loyalty of Government Employees, entitled "Miscellaneous Investigation No. 279, 18 U. S. Code 1001, 18 U. S. Code 80 (Old Section) and of proceedings on June 14, 23, 24, 28 and 29, 1949 in the above entitled causes, transmitted herewith, and the

printed transcripts of record on appeals in causes Nos. 12081, 12217 and 12221 in the United States Court of Appeals for the Ninth Circuit constitute the transcript of record on the appeals in the above entitled causes to the United States Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing and certifying the foregoing record amount to \$4.80 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 8th day of August, A.D. 1949.

EDMUND L. SMITH,

Clerk.

[Seal] By /s/ EDWARD T. DREW,  
Deputy.

In the District Court of the United States in and  
for the Southern District of California, Central  
Division

In Re:

INVESTIGATION BY THE GRAND JURY  
CONCERNING LOYALTY OF GOVERN-  
MENT EMPLOYEES, entitled "MISCEL-  
LANEOUS INVESTIGATION No. 279; 18  
U. S. CODE 1001, 18 U. S. CODE 80 (Old  
Section)."

Honorable Peirson M. Hall, Judge presiding.

REPORTER'S TRANSCRIPT  
OF PROCEEDINGS

Los Angeles, California  
May 26, 1949

Appearances

For the Government:

JAMES M. CARTER,

United States Attorney,

Los Angeles 12, California; and

MAX H. GOLDSCHHEIN,

Special Assistant to Attorney General,  
Washington, D. C.

For the Witnesses:

BEN MARGOLIS, Esq., and

JOHN T. McTERNAN, Esq.

MARGOLIS & McTERNAN,

112 West Ninth Street,

Los Angeles 15, California.

Mr. Margolis: Your Honor, I believe we ought to enter our appearance in these proceedings. Margolis & McTernan appearing for the three witnesses, by Ben Margolis and John McTernan.

The Court: Is Dorothy Healey here?

Mrs. Healey: I am.

The Court: And Mr. Greenfield?

Mr. Greenfield: Yes.

The Court: What is your first name?

Mr. Greenfield: Elvador.

The Court: E-l-v-a-d-o-r-e?

Mr. Greenfield: No "e"; E-l-v-a-d-o-r.

The Court: And Mr. Averbuck?

Mr. Averbuck: Here.

The Court: What is your first name?

Mr. Averbuck: My first name is Alvin, A-l-v-i-n.

The Court: Very well. Your counsel is Mr. Margolis and Mr. McTernan, for each one of you, is that correct? Mrs. Healey?

Mrs. Healey: Yes, sir.

The Court: Mr. Greenfield?

Mr. Greenfield: Correct.

The Court: Mr. Averbuck?

Mr. Averbuck: That is right.

The Court: Swear the witness. [3\*]

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\* Page numbering appearing at top of page of original Reporter's Transcript.



E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: E. L. Drummond.

Direct Examination

By Mr. Goldschein:

Q. Mr. Drummond, what is your business?

A. Court reporter.

Q. How long have you been a court reporter?

A. A little over 30 years.

Q. Were you sworn to take the official transcript of the grand jury, the September grand jury 1948?

A. I was.

Q. Did you on this morning, the 26th day of May, 1949, take down in shorthand the testimony of Dorothy Healey, Elvador Claude Greenfield and Alvin Averbuck?

A. I did.

Q. Did you transcribe that testimony?

A. Not yet.

Q. You have your shorthand notes with you?

A. I have.

Q. Can you read those notes back to the court?

A. Yes, sir. [4]

Q. Will you, please, sir, read the questions propounded to Mrs. Dorothy Healey and the answers she gave?

A. Yes.

(Testimony of E. L. Drummond.)

## QUESTIONS RELATING TO MRS. HEALEY

“By Mr. Goldschein:

“Q. Your name is Dorothy Ray Healey, is it not?      “A. It is.

“Q. You spell it H-e-a-l-e-y?      “A. I do.

“Q. Where do you live?

“A. At 1733 West 84th Street.

“Q. That is in Los Angeles, California?

“A. Yes, sir.

“Q. Mrs. Healey, this grand jury is investigating certain federal employees who have made false statements to the federal government in reference to their connection with certain organizations.

“Now, you are not a federal employee, are you?

“A. I am not.

“Q. And, of course, you are not under investigation. As I told you our investigation is limited to that particular matter.

“What is your occupation? [5]

“A. I am an organizer.

“Q. Will you tell us who you are organizer for?

“A. I decline to answer that question on the grounds that it may incriminate me.

“Q. You mean incriminate you in connection with a federal employee?

“A. I think the answer stands. I decline to answer that question on the grounds that it may self-incriminate me.

“Q. Will you elaborate so we may understand

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

what you mean? You say you are not a federal employee. I have told you we are investigating federal employees. Will you elaborate on that some, please, madam?

“A. I don’t think the question needs elaboration. I think I am declining to answer on the grounds that the question that you asked me may possibly self-incriminate me.

“Q. Now, Mrs. Healey, do you know who has the books and records of the Los Angeles County Communist Party?

“A. I decline to answer that question on the same grounds.

“Q. Can you tell us, Mrs. Healey, whether or not the Los Angeles County Communist Party has a chairman?

“A. I decline to answer that question on the same grounds.

“Q. Can you tell us whether or not it has an organizational secretary?

“A. I decline to answer the question on the same grounds.

“Q. Can you tell us whether or not it has an education director?

“A. I decline to answer on the same grounds.

“Q. Can you tell us whether or not it has a labor director?

“A. I decline to answer on the same grounds.

“Q. Can you tell us whether or not the member-

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

ship or social director would have a list of the members of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Can you tell us whether or not they have a financial director?

“A. I decline to answer on the same grounds.

“Q. Can you tell us whether or not the financial director would have a record of the dues paid by the members of the Los Angeles County Communist Party? [7]

“A. I decline to answer on the same grounds.

“Q. Now, Mrs. Healey, the question that I have just asked you are for the purpose of information. We are not interested particularly in how you know. All we are interested in is who they are.

“Can you tell us who they are?

“A. I decline to answer on the same grounds.

“Q. Can you tell us who has the record showing the dues paid by the membership of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Now, Mrs. Healey, can you tell us the name of anyone who can give us that information I just asked you?

“A. I decline to answer on the same grounds.

“Q. But that information is available, is it not?

“A. I decline to answer on the same grounds.

“Q. Can you tell us how many divisions there are in the Los Angeles or the Los Angeles County Communist Party?

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“A. I decline to answer on the same grounds.

“Q. Can you tell us how many sections there are in the divisions?

“A. I decline to answer on the same grounds. [8]

“Q. Can you tell us how many clubs there are?

“A. I decline to answer on the same grounds.

“Q. Can you tell us how many squads there are?

“A. I decline to answer on the same grounds.

“Q. Mrs. Healey, can you tell us who is chairman of the eastern division of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Can you tell us who is the chairman of the midtown division of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Can you tell us who is the head of the southern division of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Can you tell us who is the head of the western division of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Can you tell us who is the head of the youth division of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“Q. Can you tell us who is the head of the [9] student section of that youth division?

“A. I decline to answer on the same grounds.

“Q. Mrs. Healey, each division has a chairman, does it not?

“A. I decline to answer on the same grounds.

“Q. Or sometimes called an organizer?

“A. I decline to answer on the same grounds.

“Q. Does each division have an organizational secretary?

“A. I decline to answer on the same grounds.

“Q. Does each have a membership or social secretary?

“A. I decline to answer on the same grounds.

“Q. Does each have a membership or social director?

“A. I decline to answer on the same grounds.

“Q. Does the membership or social director of each division have a list of the membership of that division?

“A. I decline to answer on the same grounds.

“Q. Does each division have a financial director?

“A. I decline to answer on the same grounds.

“Q. Do not the membership director and the financial director have the books and records of the Los Angeles County Communist Party?

“A. I decline to answer on the same grounds.

“Q. Will you tell us who has the books and records of the Los Angeles County Communist Party?



(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“A. I decline to answer on the same grounds.

“Q. Mrs. Healey, the Daily People’s World, are you familiar with that? Have you seen it?

“A. Yes, I have seen the paper.

“Q. Of April 28, 1949, did you see that issue?

“In an article headed ‘Mrs. Healey No. 18 in Los Angeles Witch Hunt,’ it states ‘Mrs. Dorothy Ray Healey, organizational secretary of the Los Angeles Communist Party, today announced that on her return to work after six months’ leave of absence she was subpoenaed to appear before the federal grand jury.’

“And ‘The Daily People’s World of May 25, 1949, carries on its front page an article regarding a proposed picket line on the Los Angeles Federal Building in protest of the grand jury’s proceeding.’

“Now, that statement with reference to Mrs. Dorothy Ray Healey, the organizational secretary of the Los Angeles Communist Party, is that designation correct with reference to you? [11]

“A. I decline to answer on the same grounds.

“Q. Do you know anything about the Daily People’s World?

“A. You would have to be more specific.

“Q. I mean, is it a reliable paper?

“A. I think their reliability is a public record.

“Q. Is a public record?

“A. It is a public record, regarding its reliability.

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“Q. Well, now, I am not familiar with it. This is, I think, the first or second copy I have ever seen of it. I am not from Los Angeles, and that is the reason I asked you. You say you know the paper and are familiar with it.

“Is it a reliable publication?

“A. I would like to consult with my counsel before answering that question.

“Q. It is an opinion. If you don't care to give it, that is all right.

“A. I would like to consult with my attorney before answering the question.

“Q. You mean its reliability is questionable?

“A. I would like to consult with my attorney before answering the question. [12]

“Q. All right. Mrs. Healey, when did you first learn that a subpoena had been issued for you?

“A. I decline to answer on the same grounds.

“Q. You knew, did you not, that on October 25 a subpoena had been issued for you?

“Mr. Carter: 1948.

“Q. (By Mr. Goldschein): 1948.

“A. I would like to consult with my attorney before answering the question.

“Q. This article that I read to you said that you returned after a six months' leave of absence. Will you tell this grand jury where you were prior to your return?

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“A. I would like to consult with my attorney before answering the question.

“Mr. Goldschein: All right, Mrs. Healey. We will recess you for a few minutes.

“The Witness: Thank you.

“(Witness leaves room and later returns.)

“Q. (By Mr. Goldschein): Mrs. Healey, I believe the last question was where were you prior to your returning to Los Angeles to business.

“A. I decline to answer on the ground it may be self-incriminating.

“Q. Now, you gave us your home address, I believe, [13] did you not? “A. Yes.

“Q. What is your business address?

“A. I decline to answer on the same grounds.

“Q. Now, will you tell us where you were served with process, where you were served with a subpoena?

“A. I had left my home about five minutes before that, I am trying to remember—I live on 84th.

“Q. Was it at your place of business?

“A. I had left my home and it was about five minutes later. It was somewhere on Normandy right near my home.

“Q. It was not at your place of business?

“A. No.

“Q. Mrs. Healey, are you married?

“A. Yes.

“Q. What is your husband's name?

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“A. Mr. Goldschein, you know and I know that that question has no relevancy to this question of any inquiry into any federal employees and you know and I know why you want to ask the question.

“I am sure Mr. Carter’s friends and Mr. Carter are particularly interested whenever someone’s family or acquaintances are drawn into here or in open [14] court or through some very strange unofficial leaks into the papers.

“Q. Mrs. Healey, don’t you know whether or not your husband is a federal employee, if you have a husband?

“A. He is not a federal employee and has never been a federal employee.

“Q. Now, will you tell us his name?

“A. His name is Philip Connelly.

“Q. Is Mrs. Dorothy Healey your maiden name?

“A. It is my name. I just have never assumed my husband’s name, inasmuch as I am known as Mrs. Healey, I have maintained that name.

“Q. I take it that Dorothy Ray Healey is—or Mr. Healey is the man you were married to prior to Mr. Connelly?

“A. You are correct.

“Q. And you are divorced from Mr. Healey?

“A. That is correct.

“Q. And, now, Mrs. Healey, the grand jury wants you and directs you to bring with you here this afternoon, when you return to the grand jury at 2:00 o’clock, all books, records, memoranda and

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

files that you may have of the Los Angeles Communist Party or the Los Angeles County Communist Party, [15] particularly those showing membership in the Communist Party or dues paid by members to the Communist Party of Los Angeles or the Los Angeles County Communist Party.

“The Foreman: Mrs. Healey, you are ordered herewith and directed to produce those records this afternoon at 2:00 o’clock.

“The Witness: Am I excused now?

“Mr. Goldschein: You will return here then, please?

“The Witness: Yes, of course.

“The witness then left the room and asked to return and said:

“The Witness: I think it should be explained in answer to your last request that I do not have any such records, that I never have had any such records.

“Mr. Carter: Well, then, we will modify the direction that you bring in the records of the Communist Party of Los Angeles County, whether they are in your possession or not.

“Q. (By Mr. Goldschein): You are in charge of those records, are you not? “A. No.

“Q. Who is?

“A. I decline to answer that on the ground, [16] same grounds as before.

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“Q. (By Mr. Goldschein): You have no control over the records at all? [17] “A. None.

“Q. Have you ever had any control over them?

“A. No.

“Q. (By Mr. Carter): Do you know who does have control over the records?

“A. That I decline to answer on the grounds it may be self-incriminating.

“Mr. Goldschein: Mrs. Healey, the grand jury directs you, an organizer of the Communist Party, to bring with you this afternoon at 2:00 o'clock all books and records and memoranda of the Communist Party of Los Angeles County or the Los Angeles County Communist Party, whatever the name may be. You will return here at 2:00 o'clock, please, madam. [18]

\* \* \*

“(When the witness returned to the room she said:)

“The Witness: I think it should be explained in answer to your last request that I do not have any such records, that I never have had any such records.

“Mr. Carter: Well, then, we will modify the direction that you bring in the records of the Communist Party of Los Angeles County, whether they are in your possession or not.

“Q. (By Mr. Goldschein): You are in charge of those records, are you not? “A. No.



(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“Q. Who is?

“A. I decline to answer that on the ground, same grounds as before.

“Q. (By Mr. Carter): Were you ever in charge of those records?

“A. No, I never was.

“Q. (By Mr. Goldschein): Did you ever have the records in your possession? “A. Never.

“Q. (By Mr. Carter): Are there records in the place of business where you work?

“A. I decline to answer that on the ground it may be self-incriminating.

“Q. (By Mr. Goldschein): Mrs. Healey, those records are made by somebody who works under your direction, is that not so?

“A. I would like to consult with my attorney before answering that.

“Mr. Goldschein: All right.

“(Witness leaves room and returns.)

“The Witness: Would you rephrase the question?

“Mr. Goldschein: Will you read the question, Mr. Reporter?

“(The question was read.)

“The Witness: The answer is no.

“Q. (By Mr. Goldschein): You have no control over the records at all? “A. None.

“Q. Have you ever had any control over them?

“A. No.

(Testimony of E. L. Drummond.)

(Questions Relating to Mrs. Healey.)

“Q. (By Mr. Carter): Do you know who does have control over the records?

“A. That I decline to answer on the ground it may be self-incriminating.

“Mr. Goldschein: Mrs. Healey, the grand jury directs you, an organizer of the Communist Party, to bring with you this afternoon at 2:00 o'clock all books and records and memoranda of the Communist Party of Los Angeles County or the Los Angeles County Communist Party, whatever the name may be. You will return here at 2:00 o'clock, please, madam.” [21]

\* \* \*

### Direct Examination

By Mr. Goldschein:

Q. Mr. Drummond, were you present when the witness Elvador Claude Greenfield was present in the grand jury room and sworn? A. I was.

Q. Did you take down in shorthand the questions asked him and the answers he gave?

A. I did.

Q. Will you read those questions and answers to the court, please. A. Yes, sir.

The Court: First of all, tell me when it was.

Q. (By Mr. Goldschein): Was that following Dorothy Healey's appearance before the grand jury today, the 26th day of May, 1949?

A. It was immediately following her appearance and immediately after she was excused until 2:00 o'clock.

(Testimony of E. L. Drummond.)

The Court: Which was today?

The Witness: This morning; yes.

QUESTIONS RELATING TO  
MR. GREENFIELD

By Mr. Goldschein:

“Q. What is your full name, sir?

“A. Elvador G. Greenfield.

“Q. Where do you live?

“A. 5866 South Broadway.

“Q. What is your business?

“A. I am at present unemployed.

“Q. Were you ever employed by the federal government? “A. No.

“Q. Mr. Greenfield, this grand jury is investigating [38] federal employees who have made false statements to the federal government with reference to their connection with certain organizations. The grand jury is not investigating you especially, since you are not a government employee. All we want from you is what you know about matters under question.

“Now, do you know who has the books and records of the Los Angeles County Communist Party?

“A. I refuse to answer on the ground it may incriminate me.

“Q. Do you know Mrs. Dorothy Healey?

“A. As she is connected with this case only.

“Q. What do you mean by ‘as she is connected with this case’?

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Greenfield.)

“A. Well, I know that she is connected with this case.

“Q. What case?

“A. What we are here for.

“Q. You mean you know she was subpoenaed as a witness before the grand jury.

“A. What I know, she is out here in the anteroom.

“Q. Sir?

“A. I know she is out in the anteroom. [39]

“Q. Was that the first time you ever saw her?

“A. I refuse to answer that on the ground it may incriminate me.

“Q. How long have you known her?

“A. I refuse to answer that on the ground it may incriminate me.

“Q. Does she have the books and records of the Los Angeles County Communist Party, do you know?

“A. I refuse to answer that on the ground it may incriminate me.

“Q. Do you know who has the books and records of the Los Angeles County Communist Party?

“A. I refuse to answer that on the ground it may incriminate me.

“Q. Mr. Greenfield, do you know whether or not the Los Angeles County Communist Party is divided up into divisions?

“A. I refuse to answer that on the ground of incrimination.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Greenfield.)

“Q. Can you tell us how many divisions there are?

“A. I refuse to answer that on the same grounds.

“Q. Will you tell us whether or not each division of the Communist Party of Los Angeles County keeps books of the membership of that division?

“A. I refuse to answer that on the ground of incrimination.

“Q. Can you tell us whether or not you know the names of the chairmen or the directors of these divisions or the organizers of these divisions?

“A. Repeat the question, please.

“Q. Will you tell us the names of the chairmen or organizers of these divisions?

“A. I refuse to answer on the ground of incrimination.

“Q. Will you tell us whether or not these divisions each have a membership or social director?

“A. I refuse to answer on the ground of incrimination.

“Q. Mr. Greenfield, we want to know the names of these people that hold these offices. That is the purpose of asking you this question.

“Can you tell us whether or not there is a financial organizer in each division, and who they are?

“A. I really don't understand the question.

“Q. Well, does each division have a financial director? If so, will you give us their names?

“A. I would refuse to answer that on the ground of incrimination.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Greenfield.)

“Q. Mr. Greenfield, when did you first learn [41] that there was a subpoena issued by this grand jury for your attendance here?

“A. I refuse to answer that on the ground of incrimination.

“Q. When were you subpoenaed to appear here?

“A. When was a subpoena ever given to me to attend here, is that what you mean?

“Q. Yes.

“A. There never was any subpoena given to me.

“Q. Sir?

“A. There never was a subpoena given to me.

“Q. When were you notified that you were wanted before this grand jury, May 6, 1949?

“A. Yes.

“Q. Well, you were arrested on a bench warrant on that day.

“A. That is right.

“Q. Where were you prior to the time that you were arrested?

“A. I refuse to answer that on the ground of incrimination.

“Q. (By Mr. Carter): Where were you between October 25, 1948 and May 6, 1949?

“A. I refuse to answer that on the ground of self-incrimination. [42]

“Q. (By Mr. Goldschein): You knew in October that there was a subpoena out for you, did you not?

“A. I refuse to answer that on the ground of incrimination.



(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Greenfield.)

“Mr. Goldschein: You may wait outside, sir.

“(He was then recalled at 1:30 p.m.)

“Q. (By Mr. Goldschein): Mr. Elvador Claude Greenfield recalled. That is your full name, isn't it?

“A. That is right.

“Q. Mr. Greenfield, I believe I asked you this morning whether or not you knew who had the books and records of the Los Angeles County Communist Party. Did I ask you that question?

“A. I think you did.

“Q. What was your answer?

“A. That I refused to answer on the ground of incrimination.

“Mr. Goldschein: All right, sir. Will you wait outside, please, sir?

“The Witness: Yes.”

Q. (By Mr. Goldschein): I believe I asked you whether or not the witness was sworn before he was asked these questions?

A. He was sworn by the foreman; yes, sir. [43]

The Court: Cross-examine.

Mr. Margolis: Not at this time, your Honor.

The Court: Very well.

By Mr. Goldschein:

Q. Mr. Drummond, were you in the grand jury room on May 26, 1949, when Alvin Abram Averbuck appeared before the grand jury?

Q. Did you take down in shorthand all the questions that were asked him there and all the answers that he gave?           A. I did.

(Testimony of E. L. Drummond.)

Q. Was Mr. Averbuch sworn?

A. He was sworn by the foreman.

Q. Will you please read those questions asked him and the answers he gave?      A. Yes.

#### QUESTIONS RELATING TO MR. AVERBUCK

“By Mr. Goldschein:

“Q. Your name is Alvin Abram Averbuck, is it not?      “A. That is correct.

“Q. Where do you live, Mr. Averbuck?

“A. I live at 2105 Clifford Street, in the city of Los Angeles, Zone 26.

“Q. What is your business, Mr. Averbuck?

“A. Well, I am an organizer.

“Q. What is your business address? [44]

“A. Well, I have been working from my house and I also work from a downtown office at 124 West 68th Street.

“Q. Is that an office building?

“A. That is correct.

“Q. What room or what office number is it?

“A. I do not know the exact number just off-hand.

“Q. What name is on the door?

“A. That question I refuse to answer on the grounds that it possibly may incriminate me.

“Q. What floor of that building is it on?

“A. The fifth floor.

“Q. The fifth floor. Now, can you designate it in any other way? Is your name on the door?

“A. It is not.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Averbuck.)

“Q. Is any individual’s name on the door?

“A. I do not know.

“Q. How many offices are there on that floor?

“A. I do not know that.

“Q. Approximately.

“A. I couldn’t even hazard a guess. I have never walked around the floor.

“Q. Now, can you describe getting to your office on that floor from the elevator? [45]

“A. I refuse to answer that question on the ground that it possibly might incriminate me.

“Q. Well, you told us on the fifth floor of that building. How would your telling us where your office, the specific office would incriminate you, sir?

“A. I think there are certain connections there that possibly could incriminate me.

“Q. Do you know Mrs. Dorothy Healey?

“A. I refuse to answer that question on the ground that it would or possibly could incriminate me.

“Q. Mr. Averbuck, this grand jury is investigating federal employees, that is, whether some federal employees in this district have made false statements with reference to their connection or affiliation with certain organizations.

“Now, you are not a federal employee, are you?

“A. I am not.

“Q. And have not been for the past five years, have you? “A. That is correct.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Averbuck.)

“Q. So this investigation can’t possibly touch you, can it?

“A. It certainly can, I think, and that is why [46] I am refusing to answer on the ground that it can possibly incriminate me.

“Q. Can incriminate you even though it is not directed toward you, you still refuse?

“A. Well, I understand that it is not directed towards me.

“Q. Sir?

“A. That is your statement, I understand, that it is not directed towards me.

“Q. That is right. Now, with that explanation, will you answer my question with reference to how to locate this office on the fifth floor at the address you just gave us?

“A. I give the same answer, that I refuse to answer on the ground that it may possibly incriminate me.

“Q. Mr. Averbuck, do you know who has the books and records of the Los Angeles County Communist Party?

“A. I refuse to answer the question on the same ground, that it may possibly incriminate me.

“Q. Now, do you know how many divisions of the Los Angeles County Communist Party there are?

“A. I refuse to answer that question on the same grounds, that it may possibly incriminate me.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Averbuck.)

“Q. Do you know the names of any of the chairmen [47] of any of the divisions of the Los Angeles County Communist Party?

“A. I refuse to answer that question on the same grounds, that it may possibly incriminate me.

“Q. Do you know the names of the membership or social organizers of any of the divisions of the Los Angeles County Communist Party?

“A. I refuse to answer that question on the same grounds, that it may possibly incriminate me.

“Q. Do you know the names of the financial organizers or financial directors of any of the divisions of the Los Angeles County Communist Party?

“A. For the same ground I refuse to answer, because it may possibly incriminate me.

“Q. Do you know the names of the officials of any of the divisions of the Los Angeles County Communist Party that have the books and records of that division of the Communist Party?

“A. I refuse to answer on the ground that it may incriminate me.

“Q. Do you know or have you ever met a former government employee named Morell?

“A. I would like to consult my attorney about that.

“Q. Did you ever see Mrs. Dorothy Healey with any [48] of the books or records of the Los Angeles County Communist Party?

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Averbuck.)

“A. I refuse to answer that on the ground that it would and possibly could incriminate me.

“Q. What did you say your occupation was?

“A. Organizer.

“Q. For whom?

“A. For the same reason I refuse to answer that, on the grounds that it possibly may incriminate me.

“Q. When did you first learn that you were being sought as a witness to appear before this grand jury?

“A. The day that I was served was when I first knew that I was being sought to appear as a witness by this grand jury.

“Q. When was that, sir?

“A. May 6 of this year, 1949.

“Q. You didn't know prior to that time that you were being sought as a witness?

“A. I did not know.

“Q. Did you discuss with anybody your being sought as a witness before this grand jury, prior to May 6th?

“A. I refuse to answer that question on the [49] ground that it would and possibly could incriminate me.

“Q. Where were you from October of 1948 up until May 6th?

“A. I refuse to answer that question on the ground that it possibly could incriminate me.

“Mr. Goldschein: That is all. Will you wait outside, please, sir?”



(Testimony of E. L. Drummond.)

The Court: Cross-examine.

Mr. Margolis: Not at this time, your Honor.

I assume the government has concluded?

Mr. Goldschein: That is right.

Mr. Carter: Pardon us just a moment, your Honor.

(Conference between government counsel.)

\* \* \*

The Court: Well, that is all right with me.

In so far as the matters of Healey, Greenfield and Averbuck are concerned, they are continued to Friday, June 3, at 10:00 o'clock in the morning in this courtroom. Mrs. Healey, Mr. Greenfield and Mr. Averbuck are now ordered and directed to be and appear at that time. [58]

I understand they all have bonds on some other proceedings? One of them does. Who does?

Mr. Margolis: Mr. Greenfield I know is on bond. I think the other two are not.

The Court: They are ordered and directed to be here at that date and hour. The grand jury will return to the grand jury room.

(Recess.) [59]

\* \* \*

The Clerk: The roll of the grand jury has been called, your Honor, and a quorum is present.

The Court: Very well. Mr. Carter?

Mr. Carter: If the court please, the grand jury desires to present to the court the matter of the

witness Horace Morton Newman, Jr., who was asked certain questions and refused to answer them upon the ground he might incriminate himself. It is the position of the grand jury and the government that the questions did not incriminate and we desire at this time to make a presentment on the testimony of the witness.

The Court: Very well. Swear the witness.

Mr. Carter: The grand jury is present. The record so shows?

The Court: Yes.

#### E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name.

The Witness: E. L. Drummond.

The Clerk: Your address?

The Witness: 106 West Third Street. [60]

#### Direct Examination

By Mr. Carter:

Q. Mr. Drummond, you are an official court reporter? A. Yes, sir.

The Court: Just a moment. In the proceedings of the three witnesses previously heard this afternoon, the witness was sworn only once, which brings up the question as to the type of proceedings. I do not think it necessary to swear him with relation

(Testimony of E. L. Drummond.)

to the testimony as to each witness because the title of these proceedings, Mr. Clerk and Mr. Reporter, will be in the matter of: Investigation into the Loyalty of Government Employees, Alleged Violations of Old Title 18, U. S. Code, Section 80, Revised Title 18, U. S. Code, Section 1001.

Very well.

Q. (By Mr. Carter): Mr. Drummond, on April 21, 1949, did you report some testimony of this grand jury here in court? A. I did, sir.

Q. And was Horace Morton Newman, Jr., a witness called before that grand jury?

A. He was.

The Court: April 21st?

Mr. Carter: April 21st.

Q. Was the witness sworn who testified before the [61] grand jury? A. He was.

The Court: Were you previously sworn as a reporter?

The Witness: Yes, sir.

Q. (By Mr. Carter): Will you read from the transcript that you have prepared of the proceedings on April 21, before the grand jury, all the testimony of Mr. Newman, the questions asked and the answers given.

I have already spoken to counsel, your Honor, and he has no objection to this procedure, rather than using the shorthand notes.

The Court: That is to say, he has no objection to the reporter reading from the transcript?

(Testimony of E. L. Drummond.)

Mr. Carter: That is right.

The Court: Very well.

Mr. Margolis: In lieu of reading from the shorthand notes.

The Court: In lieu of reading from the shorthand notes?

Mr. Margolis: Yes.

## QUESTIONS RELATING TO MR. NEWMAN

The Witness: "Horace Morton Newman, Jr., called as a witness before the grand jury, having been first duly sworn by the Foreman, was examined and testified as follows: [62]

### "Examination

"By Mr. Carter:

"Q. Your name is Horace Morton Newman, Jr.?

"A. Yes, sir.

"Q. Where do you live?

"A. 4327 Tourmaline Avenue, Los Angeles.

"Q. How long have you lived there?

"A. Approximately 2 years.

"Q. Where did you live before that?

"A. 9120 South Wilton Place, Los Angeles.

"Q. And how long have you lived in this county?

"A. Well, since I was discharged from the Army in September of 1945, and I previously lived here since about 1922 or '23, a good many years, most of my life.

"Q. And did you serve in the Army during this last war?            "A. Yes, I did.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

“Q. What branch of the service?

“A. I was in the Army, I was in the medics, medical corps, and in the infantry.

“Q. Did you have a rating or commission?

“A. Well, as a matter of fact I had just a rating as a non-commissioned officer, technician 5th grade, and later a technical sergeant. [63]

“Q. Did you volunteer or were you drafted?

“A. I volunteered.

“Q. When did you volunteer?

“A. I volunteered in April of '43. I was at that time a 3-A, as I had two small children.

“Q. And you served until what date?

“A. Until September of 1945.

“Q. Where did you see service?

“A. Overseas most of the time, in the South Pacific, New Caledonia, I was there for some time and then in Manila, Luzon, and Philippine Islands.

“Q. You volunteered because you were a citizen of this country? “A. That is right.

“Q. And wanted to protect this country?

“A. That is correct.

“Q. If war should break out tomorrow with the Soviet Union, would you again volunteer to fight for your country?

“A. Could I speak to my attorney before I answer that question?

“No, it is not necessary. If you want to speak to him, we don't want to take away your right to talk to your attorney, go ahead and talk to him.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

“(Witness leaves room and returns.) [64]

“The Witness: It is my attorney’s advice that this question does not come under the realm of investigation of this grand jury and that it actually invades my rights of opinion and so forth, and so that is my own opinion. You know, this is an ‘iffy’ sort of question which is highly speculative, an event that I do not believe is likely to happen, as a matter of fact.

“Q. I only asked you the question because you injected into your answers the fact of your service in the Army and I wanted to bring that out. You raised the question of your having fought for this country in the last World War, and that is the reason for the question I asked you, just to sort of complete the record, Mr. Newman.

“A. I see.

“Q. You decline to answer it, do you?

“A. Well, beyond that answer, yes.

“Q. Mr. Newman, I want to inform you as to the purpose of this investigation which is being conducted by this grand jury. We are not investigating the Communist Party. We are not investigating their official setup. We are not investigating their purposes, we are not investigating their activities materially. There has been no witness called before [65] this grand jury who has been asked any questions on any of those subjects. What we are investigating are some cases referred



(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

to the U. S. Attorney's office for investigation and prosecution, involving generally the loyalty of government employees. Whenever a case is referred to this office the man who is named in that case is referred to as the subject, these subjects that are under investigation are employees of the federal government who are alleged to have made a false statement to the employing agency.

"The federal law provides that if a person makes a false statement to the agency which employs him or to any federal agency, he has committed a crime. These subjects as part of the government's loyalty program were asked whether or not they were or had been members of the Communist Party and they stated they were not and had not been members of the Communist Party. It therefore becomes material to find out whether they told the truth or lied about the matter. It is a matter of considerable importance to them, because their jobs, and the reputations and whether or not they would be prosecuted for a crime hinges upon the ascertainment of that fact.

"That is what we are trying to find out. We have had information indicating Dorothy Healey either has the membership records or knows where the membership records are of the Communist Party of Los Angeles County.

"We have had a subpoena issued for her. We have been unable to serve her and we therefore called you in to get some information. You are not

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

under investigation. We are not investigating you. We are not investigating your activities. If we ever start to investigate them, let me assure you it will be a good bit different investigation than the one which is being conducted. We do not intend to use what you tell us in any proceeding against you. The law is that you have no right to protect another person. And there is the privilege against self-incrimination which the court must rule on if you claim it, but that does not concern any protection to any other person. Do you understand what I have told you?

"A. Yes, I do.

"Q. Do you know Dorothy Healey?

"A. I am going to have to claim the privilege in response to that question.

"Q. Do you know where she lives? [67]

"A. I will have to claim the same privilege.

"Q. Do you know her office address?

"A. I want to claim the same privilege.

"Q. Do you know her business or occupation?

"A. I have to claim the same privilege.

"Q. Do you know her husband's name?

"A. The same privilege.

"Q. Do you know her husband's occupation?

"A. I am going to have to claim the same privilege.

"Q. Do you know where Dorothy Healey could be found or located?

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

“A. I will have to claim the same privilege.

“Q. Have you seen Dorothy Healey recently?

“A. I will have to claim the same privilege.

“Mr. Carter: Any other questions?

“Q. (By Mr. Carter): You are under bond, are you not? “A. That is correct.

“Q. For appearance in court?

“A. That is right.

“Q. If this grand jury calls you back at some later date and notifies you to appear again before the grand jury, will you appear?

“A. Yes, sir, I will. [68]

“Mr. Carter: With that assurance we will excuse you at this time.

“(Witness excused.)”

By Mr. Carter:

Q. Now, Mr. Drummond, did you today take certain testimony of the witness Horace Morton Newman, Jr., before the grand jury?

A. I did.

Q. Today, May 26th? A. Yes, sir.

Q. Were you sworn as the reporter today?

A. I was sworn at the time the grand jury was impaneled.

Q. Was Mr. Newman again sworn as a witness before the grand jury? A. He was.

Q. Do you have your notes with you of the testimony you took down, the questions and answers? A. I do.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

Q. Will you read from your shorthand notes the proceedings that occurred today? A. Yes, sir.

“By Mr. Goldschein:

“Q. Your name is Horace Morton Newman, Jr., is it not? [69] “A. That is right.

“Q. Where do you live?

“A. 4327 Tourmaline Avenue, Los Angeles.

“Q. You were before this grand jury on April 21, 1949, were you not?

“A. To the best of my recollection it was some date in the latter part of April. I believe that is correct.

“Q. You were here just one time?

“A. I think that is correct, yes.

“Q. Now, Mr. Newman, what is your occupation? “A. An educational director.

“Q. You are not employed by the federal government now, are you? “A. No.

“Q. Nor have you been for the past three or four years? “A. That is—well, let’s see——

“Q. The last three years, anyway?

“A. That is correct.

“Q. Now, this grand jury is investigating a false statement or false statements made by federal employees who are now employed by the government, with reference to certain of their connections and associations, so that would not involve you at all, [70] since you are not a federal employee nor have you been for the past three years.

“That is so, is it not? You are not a federal

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

employee, are you?      "A. No, I am not.

"Q. Nor have you been for the past three years?

"A. That is correct.

"Q. And we are now investigating the question of federal employees, as I just stated to you, so that question does not involve you, does it?

"A. Well, I am not sure of the legal technicalities involved.

"Q. All right, but it does not involve you, and you are not now, by this grand jury, you are not under investigation. That is not a question I am asking you, it is a statement I am making to you. This grand jury is not investigating you, just to put your mind at ease.

"Now, what is your business address?

"A. I am going to have to claim the privilege of refusing to answer that on the grounds that it might incriminate me.

"Q. Who are you educational director for?

"A. I am going to have to make the same answer to that question. [71]

"Q. You are fearful that that question may incriminate you, the answer to it?

"A. That is right.

"Q. Do you know who the financial director is of the eastern division of the Los Angeles County Communist Party?

"A. I will have to make the same answer to that.

"Q. Do you know who the membership or social

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

director is of the eastern division of the Los Angeles County Communist Party?

“A. I will have to make the same answer to that.

“Q. Now, who is the chairman of the Los Angeles County Communist Party?

“A. I wish to make the same answer to that.

“Q. Who is the organizational secretary of the Los Angeles County Communist Party?

“A. I wish to make the same answer to that.

“Q. Do you read the People's World?

“A. Before answering that, may I speak to my counselor?

“Q. Yes, but rather than waste time we will withdraw the question. Do you know whether or not the Los Angeles County Communist Party has an [72] educational director?

“A. I will have to make the same answer to that.

“Q. What did you say previously when I asked you your occupation? Did you say you were an educational, what——

“A. I was an educational director.

“Q. Now, do you know whether or not the Los Angeles County Communist Party has a labor director? “A. I wish to make the same answer.

“Q. Do you know whether or not they have a membership or social director?

“A. I wish to make the same answer.

“Q. Do you know whether or not the membership or social director has a list of the membership of the Los Angeles County Communist Party?



(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

“A. I wish to make the same answer.

“Q. Do you know whether or not the Los Angeles County Communist Party has a financial director?

“A. I wish to make the same answer.

“Q. Do you know whether or not the financial director keeps an account of the dues collected from the members of the Los Angeles County Communist Party?

“A. I wish to make the same answer.

“Q. (By Mr. Carter): Do you keep any records of any kind in connection with carrying on your duties as an educational director?

“A. May I ask a question for clarification?

“Q. Yes, sir.

“A. What would you mean by the term ‘records’?

“Q. Memoranda, notes, lists of names, any sort of records that you keep in connection with carrying on your business as an educational director.

“A. May I speak to my counsel before answering that question?

“Mr. Carter: All right.

“Mr. Goldschein: Ask him about this question I asked you, too.

“The Witness: These two questions.

“Mr. Goldschein: Hurry back, please, sir.

“(Witness leaves room and returns.)

“The Witness: In reference to the first question, in that order, am I right, I believe you said that you were not investigating me. If you are, I will have

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

to refuse to answer on the ground that this question may incriminate me.

“In answer to the second, on the question of records, I do not keep any records.

“Q. (By Mr. Carter): Do you have any records of [74] any kind under your control kept by another person? “A. No.

“Q. (By Mr. Goldschein): Do you keep any memoranda of the meetings that you hold in connection with your work and people that you see?

“A. No.

“Q. Do you keep any memoranda as to dates when you hold meetings?

“A. Well, it is not memoranda, no.

“Q. Notes, anything at all, a record, do you keep a record of it? “A. No.

“Q. What do you call it? You say you don't call it memoranda. What do you call it, a note book? “A. No, no.

“Q. What do you call it?

“A. Well, I like to know where I am going on a day, you know, what my——

“Q. Itineraries? “A. That sort of thing.

“Q. That is a memorandum, isn't it?

“A. Well, but it would only mean anything to myself.

“Q. Do you keep them? “A. No, I don't.

“Q. What do you do with it?

“A. Destroy it.

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

“Q. Do you keep any record of how many people you see?      “A. No.

“Q. Whom you meet with?      “A. No.

“Q. The people who attend your conferences?

“A. No.

“Q. Who keeps those records? How do you know who to see?      “A. I make appointments.

“Q. Do you keep a record of those appointments?      “A. No, I do not.

“Q. Do you report to anybody who you see?

“A. I am going to have to refuse to answer that on the ground, on the same grounds of possible self-incrimination.

“Q. You mean who you report to?

“A. Yes, if I were to answer that it might incriminate me.

“Q. Now, what did you say about if the investigation is directed toward you?

“A. Yes, I mean in answer to your first question relative to what I read, it would appear to be an investigation [76] of me, of my reading.

“Q. No, we are not investigating you.

“A. I see.

“Q. The question is, do you read the People's World?

“A. This would appear to be an investigation of my reading.

“Q. No, it is not. I want to know with reference to whether or not you have any opinion as to

(Testimony of E. L. Drummond.)

(Questions Relating to Mr. Newman.)

the veracity or the authenticity of the articles they write.

“A. On that kind of a question I will have to refuse to answer.

“Q. You mean you refuse to answer whether or not the People’s World can be believed?

“A. That was not the question I was answering. I was answering——

“Q. Now, that is the question. Is it reliable, do you know?

“A. May I speak to my counsel before answering that?

“Q. Well, do you have an opinion on it?

“A. I would like to speak to my counsel before answering.

“Mr. Goldschein: Well, strike the question. [77]

“Q. (By Mr. Carter): Do you know Dorothy Healey is the organizational secretary of the Communist Party of Los Angeles County?

“A. I am going to have to refuse to answer that question on the ground of self-incrimination.

“Q. Do you know whether Dorothy Healey has in her possession or under her control any books and records of the Communist Party of Los Angeles County?

“A. I wish to make the same answer.”

(Then he was directed to report down in Judge Hall’s court.)

(Testimony of E. L. Drummond.)

The Court: That concludes the questions and answers of this afternoon?

The Witness: Yes.

Mr. Carter: May the record show that Horace Morton Newman, Jr., has been present here since the beginning of these proceedings, and that Mr. Margolis, I take it, is his counsel and appearing for him.

The Court: You did not enter a formal appearance.

Mr. Margolis: That is correct. I guess this is the first court proceeding.

The Court: There was a contempt proceeding for failure to obey a subpoena.

Mr. Margolis: I was thinking there was an earlier hearing too, but at that time there was no court proceeding so I [78] guess this is the first court proceeding in this matter, and I will enter the appearance in the same manner as in the other cases.

Mr. Carter: May this matter be continued to the same date as Averbuck, Greenfield and Healey?

The Court: All further proceedings in connection with this matter will be continued to June 3rd at the hour of 10:00 o'clock in this courtroom, to which time you, Mr. Newman, are ordered and directed to be and return here at that date and hour.

Mr. Margolis: I would like to ask one thing: I would like to ask the court to request counsel for

(Testimony of E. L. Drummond.)

the government, so that counsel for the defendants may be given some indication, with respect to which of these questions they are going to make a motion to compel an answer. The reason I say this is because it is my opinion, from the way some of them were presented, the government intended to abandon some of them. I would like to know.

Mr. Goldschein: All of them.

The Court: All questions which he refused to answer?

Mr. Goldschein: Yes, sir.

Mr. Margolis: Even those where you said "I won't ask it again at this time"?

Mr. Goldschein: If the question has been withdrawn then of course he can't answer it. But all questions that [79] were asked and were not withdrawn, we expect him to answer.

Mr. Margolis: Very well.

The Court: June 3rd at 10:00 o'clock. The grand jury need not be present.

You have indicated to them when you desire them to return, Mr. Carter?

Mr. Carter: They are to return on call.

The Court: They will return on call.

Court is adjourned.

(Whereupon, at 5:10 o'clock p.m., an adjournment was taken until 10:00 o'clock a.m., Friday, June 3, 1949.) [80]



CERTIFICATE

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 29th day of May, A.D., 1949.

/s/ AGNAR WAHLBERG,  
Official Reporter.

[Endorsed]: Filed July 28 1949. [81]

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June 9, 1949, 10:00 o'clock a.m.

\* \* \*

The Court: This matter was continued until this time for the purpose of hearing objections to the questions propounded by the grand jury on May 26th to Mrs. Healey, to Mr. Greenfield, to Mr. Averbuck and to Mr. Newman, each of whom are present in person and also by counsel.

Mr. Margolis: That is correct, your Honor.

The Court: Very well. I will hear your objections to the questions, or do you have a motion to make?

Mr. Goldschein: No, may it please the court. The court recessed and when the court recessed we suggested that the case be left in that condition without the government closing its case at that time.

The Court: Yes, I remember.

Mr. Goldschein: Now we would like at this time to call Mr. Tony Harry Adrean, a witness.

Mr. Adrean.

### TONY HARRY ADREAN

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

The Witness: Tony Harry Adrean. [4\*]

The Clerk: Take the stand, please.

Mr. Margolis: How do you spell that?

The Court: Tony?

The Witness: Harry.

The Court: Harry.

The Witness: Adrean.

The Court: A-d-r-i-a-n?

The Witness: A-d-r-e-a-n.

The Clerk: Your address?

The Witness: 4308 Normal Avenue, Los Angeles.

The Court: Proceed.

### Direct Examination

By Mr. Goldschein:

Q. How old are you, Mr. Adrean?

A. I will be 31 this month.

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\* Page numbering appearing at top of page of Reporter's original Transcript of Record.

(Testimony of Tony Harry Adrean.)

Q. What is your business?

A. I am a graduate student at the University of Southern California.

Q. Mr. Adrean, were you ever a member of the Los Angeles County Communist Party?

A. Yes, sir. I joined the Communist Party here in June 1942 and I resigned from it in the summer of 1947.

Q. Did you ever hold any official position with the party?

A. I was a club organizer and I was educational director [5] of a couple of clubs.

Q. In connection with your business with the Communist Party, did you learn who the officers of the party were in Los Angeles?

A. Yes, sir.

Q. Did you ever meet Mrs. Dorothy Healey?

A. Yes, sir.

Q. Can you tell us what position she held with the Los Angeles County Communist Party?

A. She held the position of organizational secretary and I believe also membership director.

Q. Can you tell us the duties of the organizational secretary and membership director?

Mr. Margolis: Objected to on the ground of insufficient foundation.

Q. (By Mr. Goldschein): Of the Los Angeles County Communist Party.

Mr. Margolis: I am sorry. I thought counsel had finished.

(Testimony of Tony Harry Adrean.)

I object on the ground of insufficient foundation.

The Court: On the ground of what?

Mr. Margolis: Insufficient foundation.

The Court: He is asking him if he knew. Do you know? [6]

Q. (By Mr. Goldschein): Do you know?

A. Yes, sir.

The Court: Very well.

The Witness: She has a control or executive position in the Communist Party. In other words, if anyone is to be kicked out of the Communist Party without a hearing and in violation of the party constitution, Dorothy Healey does it.

(Laughter)

The Court: Just a moment. We are going to have order preserved here and any witness who is on the witness stand is entitled not to be sneered at or laughed at or ridiculed or any comment of any nature made by any person in the audience concerning his testimony or his appearance or anything he says.

Mr. Margolis: Your Honor please, I move to strike that answer as not responsive and a voluntary matter outside of the framework of the question.

The Court: The motion is denied.

Had you finished your answer?

The Witness: No, sir, I hadn't.

The Court: The question was, do you know?

Q. (By Mr. Goldschein): Do you know her duties? A. Yes, sir. [7]

(Testimony of Tony Harry Adrean.)

Q. Tell them, please, sir.

A. Well, she is in control of the day-to-day activities of the party, the membership, its officers. If anyone wants to settle a dispute they go down to Dorothy Healey as the final arbiter. If anyone has business with the county and wants someone in an authoritative position to answer a question that they want to raise they go to see Dorothy Healey. If the question pertains to one of the functional offices of the party, such as the legislative director, she refers him to the legislative director or to one of the other functional officers of the Communist Party.

Q. Where is her office?

A. It is at 124 West Sixth Street.

The Court: What is the name of that building?

Q. (By Mr. Goldschein): Is that an office building?

A. Yes, sir. I believe that is the Gross Building. I am uncertain on that.

Q. What floor is she on, do you know?

A. Fifth floor.

Q. Were you ever in her office?

A. Yes, sir.

The Court: What is the room number? Do you know?

The Witness: No, sir, I don't know. [8]

Q. (By Mr. Goldschein): Were you ever in her office? A. Yes, sir.

Q. Do you see her in the courtroom?

A. Yes, sir.

(Testimony of Tony Harry Adrean.)

Q. Will you point her out, please, sir?

A. That lady sitting there next to Mr. Margolis.

The Court: The record will show that the witness has identified Dorothy Healey.

Q. (By Mr. Goldscheim): Is her office part of a suite or a group? A. Yes, sir.

Q. Is there any name on that suite of offices?

A. Well, it is the Communist Party of Los Angeles County, I believe. That is the name on the suite.

Q. Have you been to any other of the offices of that suite? A. Yes, sir.

Q. Do these offices generally have one desk or several desks?

A. Some of them have several desks.

Q. Have you been in some of those offices that have several desks?

A. Yes, sir, at least two of them.

Q. Were you in Mrs. Dorothy Healey's office?

A. I had to report to her when I got out of the Army. I couldn't be assigned to a Communist Party club without going down and being cleared through her and she assigned me.

Q. How many desks were there in her office?

A. I believe there was one desk and possibly a table. I am not clear.

Q. What was on the table?

A. A lot of junk.

The Court: Well——

The Witness: I don't know exactly.



(Testimony of Tony Harry Adrean.)

The Court: Papers you mean?

The Witness: I don't recall clearly. I believe there were papers and things like that on it.

Q. (By Mr. Goldschein): What do you mean by functional officers of the club, Mr. Adrean?

A. Well, I mean the way the party is organized it has these people responsible for the functional activity. It is set up on a functional basis.

Q. Such as?

A. Well, they have a legislative director, a membership director, a finance director, and so on.

The Court: Name them all if you can.

The Witness: I am sorry, I can't name them all. I can give you generally. [10]

Q. (By Mr. Goldschein): Just begin with the head. Who is the head of the Los Angeles County Communist Party? What do you call him?

A. I think he is the chairman of the County Central Committee.

Q. Do you know his name?

A. Nemmy Sparks.

Q. Who is the next in charge?

A. Dorothy Healey.

Q. What is her title?

A. Organizational secretary.

Q. Now who comes under the organizational secretary?

A. Well, then there is a group of functional officers such as the legislative director, the educational director, and so on.

(Testimony of Tony Harry Adrean.)

Also under her comes the——

The Court: Is there a membership director?

The Witness: It was my understanding, sir, that that was combined with Dorothy's position, at least when I got out of the Army. I had to report to her in order to be assigned to a club. That was my understanding at that time.

Mr. Margolis: I move to strike that understanding as constituting an opinion and conclusion of the witness and as not being competent admissible evidence.

Mr. Goldschein: The witness gave his explanation as to [11] why he was given to understand that that was her duties.

The Court: The motion is denied. Go ahead. I don't think he had finished answering.

The Witness: Also under her comes the various sections of the party, and they are headed by organizers. The organizers serve as the functional officers also.

Another functional officer is Phil Bock. He is the county youth director.

Then under the sections come the various clubs or the basic units of the party.

Q. (By Mr. Goldschein): Now by sections you mean what? Will you explain what you mean by sectional?

A. The organization is organized on both a territorial and a functional basis. In other words, the sections are territorial units. They will cover vari-

(Testimony of Tony Harry Adrean.)

ous areas of town, for example the Hollywood section, the midtown section and so on. Then there is an industrial section. It is organized on that basis.

Then there are these functional officers also, such as the legislative director, the county youth director, etc.

The Court: They operate countywise you mean?

The Witness: Yes.

The Court: Or does each section have a legislative director? [12]

The Witness: Then each section has a legislative director.

The Court: And a youth director?

The Witness: Well, that depends.

Q. (By Mr. Goldschein): Now were you ever required to fill out any statistical data for the Los Angeles County Communist Party?

A. Yes, sir.

Q. What did that consist of?

A. During registration periods in the party they had a mimeographed sheet come around which I had to state my name on or my party name——

Q. What do you mean by your party name?

A. Well, for security reasons we maintain, if you wish, party names. Mine was George Allen.

Q. You mean fictitious names?

A. Yes, sir.

The Court: Who gives you that name?

The Witness: I gave it to myself, sir.

The Court: You pick it?

(Testimony of Tony Harry Adrean.)

The Witness: Yes, sir.

Q. (By Mr. Goldschein): How does the party know which name you are selecting?

A. Well, I tell them. I let them know. [13]

On this statistical sheet, as I recall, I put down my name——

The Court: Your real name and your party name?

The Witness: No, sir, just my party name on that, if I recall correctly. That was in the spring of '47 the last time I filled out one of those.

The Court: Then what else did you put on it?

The Witness: Well, I had to state my location, what club I was in. I had to state my occupation, whether I belonged to some trade union, fraternal organization, whether I was a veteran. I had to give all this statistical information so that the county could, if they wanted to get their veterans together, they could get their hands on their veterans for a veterans' meeting. So that they would know how many people are located in a particular industry or in a particular trade union in order to organize activities within those various organizations.

Q. (By Mr. Goldschein): Where did that statistical data that you filled out go?

A. It went to the county.

Q. The county officers of the Los Angeles County Communist Party?      A. Yes, sir.

The Court: Did you deliver it? [14]

(Testimony of Tony Harry Adrean.)

The Witness: No, sir.

The Court: Did you mail it?

The Witness: No, sir.

Q. (By Mr. Goldschein): Who did you give it to and under what circumstances?

A. The way this interparty communication is set up, it is on what they call a centralized basis.

Mr. Margolis: Just a moment. I am going to object to this on the ground it is insufficient foundation. I think that this witness should be required to testify as to what he knows of his own knowledge and not to anything else.

The Court: Do you know?

The Witness: I know of my own knowledge how the organization is set up, how it communicates between the branches and the county. I know that from six years' experience in the party. I know that if I do something at the request of the club organizer or the county, it goes to the club organizer, he delivers it to the section and it is delivered to the county. That is the interparty communication. They don't use the mails in ordinary things of that nature.

The Court: What did you do with your—what did you call this, statistical data?

The Witness: Yes, sir. I turned it over to the club organizer and it was delivered through regular party channels.

Mr. Margolis: I move to strike that, if your Honor [15] please, as constituting hearsay, not

(Testimony of Tony Harry Adrean.)

based upon any knowledge on the part of this witness, and I ask the court to instruct the witness that his answer should be confined to what he personally did or what he personally saw and thus knows from his own knowledge. Not what he thinks was done by somebody else.

The Court: The motion is denied. Proceed.

Mr. Goldschein: That is all.

The Court: Cross-examine.

Mr. Margolis: Had you finished?

Mr. Goldschein: Yes. [16]

\* \* \*

Mr. Margolis: At this point, your Honor will recall that at the last session it was stated by all parties that it would be satisfactory to rely upon the record in former cases instead of putting in the testimony all over again.

The Court: Yes.

Mr. Margolis: And I wish at this time, your Honor, to offer as an exhibit here the printed record in the following cases: Nos. 12217 and 12221, in the United States Court of Appeals for the Ninth Circuit, being the cases of Samuel Harry [37] Kasinowitz and consolidated cases, and Lillian Adele Doran and consolidated cases, and consisting of—

The Court: Well, there is one of those that is entitled Alexander and consolidated cases.

Mr. Margolis: I was about to explain that, your Honor—consisting of four volumes. In these four volumes there is incorporated by reference previous



cases so that these four volumes contain the complete record on appeal of all of the grand jury cases arising out of the so-called investigation of loyalty of government employees.

The Court: Up to this time.

Mr. Margolis: Up to this particular proceeding.

The Court: Very well. In other words, that is a transcript of everything which has occurred before me heretofore?

Mr. Margolis: Except as to those parts of the record which neither party designated on appeal. In other words, we designated certain portions of the transcript, the government designated certain portions of the transcript, and we omitted argument and things of that kind.

The Court: What I am getting at is that everything that is in that has transpired before me in the other cases.

Mr. Margolis: That is correct.

The Court: While that is not everything that has transpired.

Mr. Margolis: That is correct. [38]

The Court: Very well.

Mr. Margolis: I ask your Honor that these be marked in evidence here and that the matters therein be considered as having been presented in this case on behalf of the respondents, and each of them, in this case, as though they have been presented in the first instance in this case by witnesses and evidence, documentary evidence, and that the

court's rulings with respect to objections be deemed to have been made in this case, and that the offers of proof following sustaining of certain objections be deemed to have been made in this case on behalf of these respondents.

In other words, the purpose being, without repeating the proceedings——

The Court: Excuse me. May I interrupt you? You said the "matters." Do you mean the matters of law and of fact?

Mr. Margolis: That is right.

The Court: Very well.

Mr. Margolis: The purpose being to get this record before the court on behalf of these defendants without going to the trouble of repeating them. That is the object of this offer.

I think counsel is familiar with these transcripts.

Mr. Goldschein: I am familiar with the transcripts and for that reason I can't see, may it please the court, why the facts in these cases are material to the case at bar. [39]

I can understand why Mr. Margolis would want the offers of proof made in the former cases made as offers of proof in this case, but what the facts in the other cases have to do with the facts in this case I don't know. I see no reason for encumbering this case with what transpired previously in other cases.

The Court: The only encumbrance is the matter of record. As far as I am concerned I am already

encumbered with it, if it can be called encumbrance.

Mr. Goldschein: I understand.

The Court: I think without passing upon the materiality of each specific thing, it must be kept in mind that the whole proceedings which were begun last October by the grand jury were in the matter of the investigation of the loyalty or false oath of government employees.

Mr. Goldschein: Yes.

The Court: And it would seem to me to be therefore a pretty broad range of materiality. I see no objection to following the procedure suggested.

Mr. Goldschein: Except we have four volumes here. Now we will have five volumes coming up this next time if the case goes up, and the next case will be six volumes, and the next case will be seven volumes. There ought to be a limitation to cases.

Mr. Margolis: I think so too. There ought to be an [40] answer to these cases sometime.

Mr. Goldschein: There aren't going to be.

Mr. Margolis: There aren't going to be?

Mr. Goldschein: No, sir, not as long as the grand jury is defied will we stop these cases.

Mr. Margolis: Until the Appellate Court tells you otherwise.

Mr. Goldschein: Of course we always abide by orders of the court, and if you people will it will end it quickly.

I am sorry for the side remarks, your Honor. I didn't intend making it here.

I don't see what the previous cases or the merits of the previous cases have to do with the case at bar, your Honor. Here we have three people before the court now——

Mr. Carter: Four.

The Court: Counsel, at the inception Mr. Margolis and his co-counsel offered many items of legal objections to the questions. They proffered certain things in evidence, some of which were received and some of which were objected to upon the grounds assigned and were rejected. I can see no wrong with counsel's offer.

Mr. Goldschein: I agree with that.

The Court: That all of these matters which he has heretofore mentioned, whether it is in that printed record or not, be deemed to be offered and in evidence or rejected in [41] this matter here.

Mr. Goldschein: That is right.

The Court: All it does is saves making five more volumes like that.

Mr. Goldschein: I make no objection to that, may it please the court.

The Court: Very well. That is the end of it then.

Mr. Goldschein: But I do object to the four volumes of testimony.

Mr. Margolis: I don't understand that.

Mr. Goldschein: These are records, a complete record in the case, the evidence of the case, what the witnesses said, the examination, the cross-examination, the offers of proof and the objections made to

them, the rulings of the court—all that may be considered in this case as they were offered and made in the other case. We make no objection to that at all.

Mr. Carter: Maybe I can straighten this out. I think Mr. Goldschein is objecting to the offer of the volumes in evidence. Supposing they are marked for identification only with the privilege to counsel to rely upon them insofar as any ruling on any matter of law or any offer of proof is concerned. Then they are not in evidence but they are a record of the Circuit Court and are available to counsel.

The Court: I can straighten it out very quickly, and I [42] will do so right now, unless Mr. Margolis objects, that everything which has heretofore been offered, either as a matter of fact or a matter of law, in any and each and all and every one of the previous cases may be deemed to have been offered and submitted and argued in this case to the same force and effect and with the same rulings as if again here repeated as they were in the other case.

Mr. Margolis: That is satisfactory. I was merely offering the record, your Honor, as a means of sort of having it before the court.

The Court: I am happy to have it. It saves me going through 15 or 20 transcripts.

Mr. Margolis: I don't care whether it is marked for identification or in evidence.

The Court: It is all deemed as a part of the

record. If it is evidentiary, it is in evidence; if it is an offer of proof, it is an offer of proof, with the same ruling on it; if it is an objection of law, it is deemed to have been made with the same ruling.

Mr. Carter: Your Honor in referring to evidentiary matters is referring only to evidentiary matters in connection with motions and whatnot, with the evidentiary matters of other witnesses who were before the grand jury, or do you include that too?

The Court: You might just as well let it all go in. [43]

\* \* \*

#### E. L. DRUMMOND

called as a witness, having been previously duly sworn, resumed the stand and testified further as follows:

The Court: You are Mr. E. L. Drummond, the same Mr. Drummond who was sworn before in these proceedings?

The Witness: Yes, sir.

The Court: Very well.

#### Cross-Examination

By Mr. Margolis:

Q. Mr. Drummond, as I understand it you have, since the beginning of what has been referred to as the investigation by the grand jury concerning loyalty of government employees, acted as a court reporter in the grand jury proceedings, is that correct? A. In some of them, yes. [44]



(Testimony of E. L. Drummond.)

Q. And the some of them included the grand jury proceedings concerning which you have testified and others concerning which you have not testified, isn't that correct?

A. Concerning these four cases and also the previous case where ten defendants were involved.

Q. But you have not read into the record here all of the testimony which you have taken as a court reporter in those grand jury proceedings, have you?

Mr. Goldschein: I object to the question, may it please the court.

Mr. Margolis: It is preliminary, your Honor.

Mr. Goldschein: Let him ask him whether he read all the testimony, not that he didn't.

The Court: Let me hear the question.

(The question referred to was read by the reporter as follows:)

(“Q. But you have not read into the record here all of the testimony which you have taken as a court reporter in those grand jury proceedings, have you?”)

Mr. Goldschein: I object to the form of the question.

The Court: It is leading.

Mr. Margolis: I thought this was cross-examination, your Honor. I thought leading questions were proper on cross-examination. [45]

The Court: I believe it is cross-examination of this witness. The objection is overruled.

(Testimony of E. L. Drummond.)

Mr. Goldscheine: I withdraw the objection.

The Witness: I have read all of the testimony of the witnesses that I was asked about here.

Mr. Margolis: I am sorry. I didn't get the answer.

(The answer referred to was read by the reporter as follows:)

("A. I have read all of the testimony of the witnesses that I was asked about here.")

Q. (By Mr. Margolis): What I want to know is whether there is testimony that you took before the grand jury that you haven't read into the record here because you have not been asked to read it into the record. A. Yes.

Q. Now do you have the records of that testimony here?

A. I have the record of these four witnesses.

Q. I am going to put a question to you which I am going to presume there is going to be an objection to, but if it is answered it will require you to examine your records, but I will put it to you now and if the question is allowed you will have an opportunity to examine your records.

State whether or not during the course of the grand jury proceedings, which we have been talking about, referred to as [46] the investigation by the grand jury concerning loyalty of government employees, Mr. Carter or Mr. Goldscheine or anyone else acting on behalf of the United States Attorney's office made any statement to the effect that

(Testimony of E. L. Drummond.)

Dorothy Healey was a member or officer of the Communist Party to the said grand jury.

Mr. Carter: Objected to on the ground it is incompetent, irrelevant and immaterial.

The Court: Objection sustained.

Mr. Carter: The record should further show the objection is based upon the further ground that the proceedings before the grand jury are confidential.

The Court: The objection is sustained.

Mr. Carter: I would like the record to have more than the general objection in there, that there is no obligation upon the prosecutor to reveal all of the testimony taken before this grand jury, that there were various witnesses called, and I will say for the record generally, without mentioning names, that some of the government employees themselves have been before the grand jury. It is not the law that any of that testimony or any of the proceedings other than the part which has been submitted here is properly presented before this court.

The Court: The objection is sustained on the ground it is immaterial. [47]

Q. (By Mr. Margolis): I will ask you the same question, sir, as the last one with respect to whether or not Elvador Greenfield was stated to be a member or officer of the Communist Party before said grand jury.

Mr. Goldschein: Will you repeat the question, please?

(The question referred to was read by the reporter as follows:)

(Testimony of E. L. Drummond.)

(“Q. I will ask you the same question, sir, as the last one with respect to whether or not Elvador Greenfield was stated to be a member or officer of the Communist Party before said grand jury.”)

Mr. Goldschein: Same objection, may it please the court.

Mr. Margolis: May I be heard for just a moment?

The Court: Surely.

Mr. Margolis: The cases all hold that the setting in which the investigation was being conducted, which includes anything which would indicate knowledge on the part of the government of matters which the government might charge to be criminal in character, is material to show the danger which the recalcitrant witness fears. And, your Honor, if this government counsel, which has repeatedly said, we are not investigating these defendants—or in this case they are [48] still respondents—these respondents, or anyone except certain government employees, but which is the same government which is prosecuting persons for membership and officership in the Communist Party in New York, if these officers of the government have stated before the grand jury that they have information to the effect that any one of these persons is a member of or an officer of the Communist Party, that is a part of the setting which shows the fear, or the basis for the fear, of danger of

(Testimony of E. L. Drummond.)

prosecution upon the basis of which they have the right to claim the privilege against self-incrimination.

That is our point, your Honor. We think it is material.

The Court: I understand your point. It is the same point you have urged before.

Mr. Goldschein: I think, may it please the court, that if the witness were asked whether or not he transcribed all the testimony of witnesses before the grand jury or statements made to the grand jury, whether or not there are any statements made to the grand jury that he did not put in his record, he would come closer to it. The best evidence of what was said in the grand jury is whether or not he took it down, whether it is in the transcript. If it is in the transcript then the transcript is the best evidence.

Now is he looking for transcripts or is he looking for something outside of the record? [49]

The Court: The objection to the pending question is sustained on all the grounds assigned by government counsel.

Proceed.

Mr. Margolis: Including this last ground, your Honor? I did not understand it.

The Court: Not the last ground. ,

Mr. Carter: May we have one moment for discussion?

The Court: Yes.

(Conference between government counsel.)

(Testimony of E. L. Drummond.)

Mr. Carter: We are going to withdraw the objection that has heretofore been made and ask the court to set aside its ruling on the two questions that have heretofore been asked by counsel, reserving the right to make other objections to other questions if and when they are asked.

The Court: Very well. Mr. Reporter, can you go back to the last previous question about Dorothy Healey?

(The question referred to was read by the reporter as follows:)

(“Q. State whether or not during the course of the grand jury proceedings, which we have been talking about, referred to as the investigation by the grand jury concerning loyalty of government employees, Mr. Carter or Mr. Goldschein or anyone else acting on behalf of the United States Attorney’s office made any statement to the effect that [50] Dorothy Healey was a member or officer of the Communist Party to the said grand jury.”)

The Court: You have no objection to this witness answering that question?

Mr. Carter: No objection.

The Witness: I don’t remember any such statement. However, I was called in immediately before Mrs. Healey was. I don’t know what transpired before that.

Q. (By Mr. Margolis): I don’t mean on just



(Testimony of E. L. Drummond.)

this one session, I mean during the entire course of the investigation, Mr. Drummond.

A. I have no remembrance of any such statement. I can only depend on my notes to remember what did occur.

Mr. Margolis: I wonder if I might, your Honor, from the standpoint of saving time, ask the witness this question and the next one that I ask and several others, and then ask him to check his notes so that we can have it done just once instead of several times.

Mr. Carter: That is satisfactory.

The Court: Go ahead.

Q. (By Mr. Margolis): You understand that I have already put the same question to you concerning Elvador Greenfield?                   A. Yes, sir.

Q. I want to put the same question to you concerning [51] Alvin Averbuck.

A. The answer would be the same. .

Q. And I want to put the same question to you with respect to Horace Morton Newman, Jr.

A. The answer would be the same there.

Q. During the course of this investigation did you hear any witness testify before said grand jury that Dorothy Healey was a member or officer of the Communist Party?

A. I think not.

Q. But you can check your notes on that at the same time?                   A. Yes, sir.

Q. I will ask you the same question with respect

(Testimony of E. L. Drummond.)

to Elvador Greenfield, Alvin Averbuck and Horace Morton Newman, Jr., and ask you when you check your records to check that also.

A. Yes, sir.

Q. Was there any statement made during the course of the grand jury investigation by any representative of the United States Attorney's office, including Mr. Carter and Mr. Goldschein, to the effect that the Communist Party was an illegal conspiracy?

Mr. Goldschein: May it please the court, I am assuming that all these questions pertain to matters outside of the record that Mr. Drummond has heretofore testified in this [52] court and the records of the grand jury transcripts that he testified about here.

The Court: Yes, I assume that.

Mr. Margolis: I would be wasting time if I was referring to what is already in the evidence.

Mr. Goldschein: The witness doesn't know and the record doesn't show it.

The Court: Read the question.

(The question referred to was read by the reporter as follows:)

(“Q. Was there any statement made during the course of the grand jury investigation by any representative of the United States Attorney's office, including Mr. Carter and Mr. Goldschein, to the effect that the Communist Party was an illegal conspiracy?”)

(Testimony of E. L. Drummond.)

Mr. Carter: Just a moment. You say during the grand jury investigation. You are not talking about some sidewalk conversation that might have occurred while the grand jury investigation was going on, do you? You refer to while the grand jury investigation was going on and before the grand jury, is that right?

Mr. Margolis: This question does, but you give me an idea for another question.

Mr. Carter: It is objected to upon the ground it is indefinite [53] and uncertain as now worded.

The Court: Objection sustained.

Q. (By Mr. Margolis): I will limit the question to the grand jury, the proceedings before the grand jury.

Mr. Carter: Then we have no objection.

Q. (By Mr. Margolis): Now I will ask you——

The Court: The witness, has not answered.

Mr. Margolis: I thought this was something we would have to check in the record.

The Court: Maybe he can answer it now.

The Witness: If there was any such statement made I did not report it because I report only the testimony of witnesses and I have no remembrance of any statement of that sort.

Q. (By Mr. Margolis): You didn't report anything except the testimony of the witnesses?

A. No, sir.

Q. Were there comments made and statements made in addition to the testimony? Was there dis-

(Testimony of E. L. Drummond.)

cussion in the grand jury room while you were there?

A. I presume there was, but I don't recall any such.

Q. You didn't pay any particular attention to that?

A. I didn't pay any particular attention to that because [54] that is not part of my job.

Q. Let me ask you this question: Have you ever, in any conversation with Mr. Carter or Mr. Goldscheine, been told by either one of them that they consider the Communist Party of the United States to be an illegal conspiracy?

Mr. Carter: That is objected to as incompetent, irrelevant and immaterial.

The Court: Objection sustained.

Mr. Margolis: I have no further questions at this time, your Honor.

I ask that the witness—yes, I do have one more question.

Q. There were other reporters or another reporter who transcribed portions of these grand jury proceedings which you did not transcribe, is that correct? A. Yes, sir.

Q. Do you know who that other reporter or reporters were?

A. I think that Frances Duffy had some of it.

The Court: A lady reporter?

The Witness: Yes. But I don't know who they all were.

(Testimony of E. L. Drummond.)

Q. (By Mr. Margolis): You don't remember who the others were?

A. No, but there is a record in the office of the General Reporting Company as to who the reporters were. [55]

Q. Could you get that information for me?

A. I could.

Q. Along with the others? A. Yes.

Mr. Margolis: I ask, if your Honor please, that this witness at this time, subject to counsel's further examination, be allowed to examine his records and to come back to testify further rather than to delay these proceedings.

The Court: How long will it take you to go through your notes and answer these questions about Healey, Averbuck, Greenfield and Newman?

The Witness: I can answer the question as to those right now.

The Court: You can answer as to those right now?

The Witness: Yes, sir. There is nothing further than what I have read here in court on any of those.

The Court: He said there is nothing further than what he has read heretofore in court.

Q. (By Mr. Margolis): Do you know that without checking your records?

A. I have my record right here.

Q. You understand that my question went not only to the testimony taken on the particular day

(Testimony of E. L. Drummond.)

that the four respondents here were called in to testify, but to during the entire course of this grand jury investigation which started [56] a number of months ago. Did you so understand my question?       A. I understood that.

Q. And your answer is still, though, that you have nothing and you know that without checking your records, Mr. Drummond?       A. I do.

Mr. Margolis: Very well, your Honor. I have no further questions.

The Court: Step down.

(Witness excused.)

Mr. Margolis: I will ask Mr. Carter to take the stand.

The Court: I do not believe he has been sworn in this case.

### JAMES M. CARTER

called as a witness by and in behalf of the respondents, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name for the record?

The Witness: James M. Carter.

Mr. Goldschein: May it please the court, these proceedings are informal, as I understand it, on the matter of procedure, that is, with reference to placing witnesses on the witness stand. I just recall that we have another witness in this case that we will want to put on.



(Testimony of James M. Carter.)

Now will there be any objection to putting him on after [57] Mr. Carter has completed his testimony?

Mr. Margolis: I understood the government had closed its case, your Honor.

The Court: That was my understanding.

Mr. Goldschein: Yes, we had. This is something that I overlooked.

The Court: Do you desire to reopen it and put him on now?

Mr. Goldschein: Yes, sir. Either now or at the conclusion of Mr. Carter's testimony.

The Court: I have no idea what Mr. Margolis wants to examine this witness about and I assume that if you have any more witnesses you should put them on first.

Mr. Goldschein: That is all right if it is all right with Mr. Margolis.

Mr. Margolis: I object to the government's case being reopened but if the court overrules my objection I would prefer to wait until the government's case is in.

Mr. Goldschein: All right. We are ready now. Step down, Mr. Carter, please, sir.

(Witness excused.)

Mr. Goldschein: We want to produce Mr. Margolis, please.

The Court: You call Mr. Margolis to the witness stand?

Mr. Goldschein: Yes.

The Court: Very well. [58]

Mr. Margolis: Your Honor please, before I am sworn I want to object to the reopening to call me because this is an oversight. This is an obvious attempt to get back at calling Mr. Carter, and I object to the matter being reopened.

The Court: Objection overruled. You will be sworn. [59]

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### FRANCES L. DUFFY

called as a witness by and in behalf of the respondents, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name, please?

The Witness: Frances L. Duffy.

The Clerk: Take the stand, please.

#### Direct Examination

By Mr. Margolis:

Q. Miss Duffy, you are an official court reporter here? [75]

A. I am for the grand jury and the pro tem of the Federal Court.

Q. Have you been a court reporter in connection with the grand jury hearings which have been entitled In the Investigation by the Grand Jury Concerning Loyalty of Government Employees?

A. Yes, sir. I took several of those hearings.

Q. Now during the course of the hearings which you took, did you just take down the testimony or did you take down everything that was said while you were in the room?

A. I took down everything that was said while I was in the room. I wasn't in the room all the time, of course you understand.

Q. Were there times when you were out of the room and when there was no reporter in the room to your knowledge?

A. Well, sometimes when I would get there they wouldn't be ready for me, the grand jury would not call me in immediately.

Q. They would call you in and there had been no reporter in there in advance of you, is that right?

A. Yes, sir.

Q. Now during the time that you reported the proceedings of the grand jury or were present in the grand jury room for the purpose of reporting proceedings of the grand jury in [76] connection with the proceedings we are talking about, did you at any time hear Mr. Carter, Mr. Goldschein or any other representative of the United States Attorney's office state to the grand jury that Dorothy Healey was a member or official of the Communist Party?

A. No, I am very sure I did not.

Q. Would you have to check your records in order to be sure on that?

A. No, I am sure I didn't. I took a whole group of the hearings but I am sure I would remember if I had heard that.

Q. I will ask you the same question with respect to Alvin Averbuck.

A. No, I don't think I ever heard the name.

Q. I will ask you the same question with respect to Horace Morton Newman, Jr.

A. No, I never heard anything about him.

The Court: How about Elvador Greenfield?

Mr. Margolis: I was going to ask that.

Q. I will ask you the same question with respect to Elvador Greenfield.

A. I never heard anything about him, I am very sure.

Q. Did you, during the course of the time that you were reporting the grand jury proceedings or present in the grand jury room in these proceedings hear any witness testify [77] with respect to any of these persons whom I have just named?

A. I heard various witnesses asked if they knew Dorothy Healey. I never heard anyone say whether they did or not.

Q. Did you during the course of these investigations hear any representative of the United States Attorney's office, including Mr. Carter and Mr. Goldschein, say anything with respect to whether or not the Communist Party was, in their opinion, an illegal conspiracy?

A. No, I never heard that.

Q. You don't recall that?

A. I am sure I never heard that.

Mr. Margolis: I have no further questions.

The Court: Step down. [78]

\* \* \*

(Testimony of James F. Carter.)

JAMES M. CARTER

resumed the stand and testified further as follows:

The Court: I believe you were sworn this morning, Mr. Carter?

The Witness: I was.

Direct Examination

By Mr. Margolis:

Q. Mr. Carter, I direct your attention to the reporter's transcript of proceedings in this matter for May 26, 1949, and particularly to page 66, line 12 thereof, and if you will read along with me.

Incidentally, the portion I am reading purports to be you speaking.

“The federal law provides that if a person makes a false statement to the agency which employs him or to any federal agency, he has committed a crime. These subjects as part of the government's loyalty program were asked whether or not they were or had been members of the Communist Party and they stated they were not and had not been members of the Communist Party. It therefore becomes material to find out whether they told the truth or lied about the matter. It is a matter of considerable importance to them, because their jobs, and their reputations and whether or not they would be prosecuted [98] for a crime hinges upon the ascertainment of that fact.

“That is what we are trying to find out. We have had information indicating Dorothy Healey either has the membership records or knows where

(Testimony of James F. Carter.)

the membership records are of the Communist Party of Los Angeles County.

“We have had a subpoena issued for her. We have been unable to serve her and we therefore called you in to get some information. You are not under investigation. We are not investigating you. We are not investigating your activities. If we ever start to investigate them, let me assure you it will be a good bit different investigation than the one which is being conducted.”

Does this correctly report, not everything that you said, but is this a correct report of what you said so far as it goes?

A. As I recall, it does.

Q. Does this correctly state the purposes of this investigation?

A. I would say it does, having in mind that reference was being made to the subjects and these witnesses were none of them subjects. That has been previously explained to the grand jury. The subjects were some four or five or more government employees. They were the people under investigation. These people were not.

Q. And the purpose of the investigation since its inception—I think that was in October, wasn't it, of 1948?

The Court: Excuse me, counsel. You were reading from page 66 of the transcript in this court on May 26th, which was the court reporter repeating what had occurred before the grand jury on April 21?



(Testimony of James F. Carter.)

Mr. Margolis: That is right.

The Court: With Mr. Newman before them and this was the reporter's testimony of Mr. Carter's statement to Mr. Newman on that date?

The Witness: Right.

Q. (By Mr. Margolis): So the fact is that ever since the beginning of this investigation, which you have called investigation by the grand jury concerning loyalty of government employees which I believe was some time in October of 1948, it has been the purpose of the investigation as stated here, is that correct?

A. Generally speaking, yes.

Q. Had there been any other purposes?

A. No, that is the general purpose, in connection with the loyalty of these government employees who were subjects.

Q. When you say general purpose, are you intending to mean that this doesn't accurately state the purpose? [100]

A. No, it accurately states it.

Q. So actually you had a group of employees who signed affidavits saying that they were not members of the Communist Party, is that right?

A. I don't know what you mean by a group. I told you I originally had four cases and subsequently there were a few more.

Q. And those people had signed affidavits stating that they were not members of the Communist Party?

A. I don't know if they were affidavits. In some

(Testimony of James F. Carter.)

cases they may have been an unsworn statement, but they were a false statement.

Q. That they are not members of the Communist Party? A. That is right.

Q. And you conducted this investigation with respect to the Communist Party of Los Angeles County because you had information to the effect that the Communist Party of Los Angeles County was a part of the Communist Party with respect to which you believe these employees had made false statements, isn't that so?

Mr. Carter: Objected to on the ground it assumes a fact not in evidence. It assumes an investigation was conducted into the Communist Party of Los Angeles County, which is not a fact.

Mr. Margolis: That isn't the question. [101]

The Court: Let me hear the question.

(The question referred to was read by the reporter as follows:)

(“Q. And you conducted this investigation with respect to the Communist Party of Los Angeles County because you had information to the effect that the Communist Party of Los Angeles County was a part of the Communist Party with respect to which you believe these employees had made false statements, isn't that so?”)

Mr. Carter: Objected to upon the ground that it assumes something not in evidence, a fact that has not been shown to exist, namely, an alleged in-

(Testimony of James F. Carter.)

investigation into the Communist Party of Los Angeles County.

Objected to upon the further ground that the question calls for information in the possession of the prosecutor that he might or might not desire to offer and that he has a privilege against revealing in this proceeding.

The Court: Let me hear the question again.

(The question referred to was reread by the reporter as follows:)

("Q. And you conducted this investigation with respect to the Communist Party of Los Angeles County because you had information to the effect that the Communist Party of Los Angeles County was a part of [102] the Communist Party with respect to which you believe these employees had made false statements, isn't that so?")

The Court: It assumes a fact not in evidence, that is to say, it assumes that the investigation being conducted by the grand jury and the purpose and object of it is to investigate the Communist Party. There certainly have been questions developed here today and questions with the last four witnesses, and particularly Mrs. Healey, relating to the organization and activity of the Communist Party. I cannot say, however, that that is the purpose of the investigation by the grand jury. It appears to be merely a corollary investigation for the purpose of getting information from which other information can be obtained concerning membership.

(Testimony of James F. Carter.)

The objection is sustained on the ground indicated.

Q. (By Mr. Margolis): Isn't it a fact, Mr. Carter, that you have made an investigation attempting to discover the records and membership of people in the Communist Party of Los Angeles County because you had information or believed that this Los Angeles County Communist Party was a part of the Communist Party with respect to which certain government employees had allegedly made false statements?

The Court: Let me hear that question again.

(The question referred to was read by the reporter as [103] follows:)

("Q. Isn't it a fact, Mr. Carter, that you have made an investigation attempting to discover the records and membership of people in the Communist Party of Los Angeles County because you had information or believed that this Los Angeles County Communist Party was a part of the Communist Party with respect to which certain government employees had allegedly made false statements?")

The Witness: May I have the question again?

The Court: Yes.

(The question referred to was reread by the reporter as follows:)

("Q. Isn't it a fact, Mr. Carter, that you have made an investigation attempting to discover the records and membership of people

(Testimony of James F. Carter.)

in the Communist Party of Los Angeles County because you had information or believed that this Los Angeles County Communist Party was a part of the Communist Party with respect to which certain government employees had allegedly made false statements?"')

Mr. Carter: I object to that question on the ground it is ambiguous and uncertain, indefinite, confusing. It is difficult for me to understand it. I have heard it three times now and I do not understand it. I object to it further on [104] the ground that it is not understandable.

I will state, however, that I conducted an investigation of certain witnesses to ascertain from them whether or not government employees under investigation had made false statements.

Mr. Margolis: That is very informative. I will submit the question. It seems to me it is perfectly clear, your Honor.

The Court: It is not clear to me. I do not know whether your question is, is it not a fact that you conducted an investigation, or is it not a fact because——

Mr. Margolis: Let me try to A B C it then, your Honor.

Q. It is true, is it not, that during the course of this investigation you asked numerous questions relating to the organization of persons who were officers of and had the membership records of the Communist Party of Los Angeles County. That is true, is it not?



(Testimony of James F. Carter.)

A. True, except the statement as to numerous questions. I would say there were some questions but the majority of the questions were not on that score. The questions were asked concerning the organization of the Communist Party of Los Angeles County. That is correct.

Q. The reason that you asked those questions was because you believed or had information to the effect that the Communist Party of Los Angeles County was part of the Communist [105] Party with respect to which you believed government employees had made false statements. That is so, isn't it?

Mr. Carter: I object to that question insofar as it calls for any information that I might have in my possession.

I will state, however—this may answer your question—that the inquiry was conducted to see whether these government employees who were under investigation were or had been members of the Communist Party of Los Angeles County.

Q. (By Mr. Margolis): And the reason for that was because you had information and believed that the Communist Party of Los Angeles County was part of the Communist Party. Isn't that so?

The Court: I do not understand that question. I would not know how he could answer it.

Mr. Margolis: I don't know.

The Witness: I think I have answered his question.

The Court: The Communist Party of Los An-



(Testimony of James F. Carter.)

geles County is part of the Communist Party?

Mr. Margolis: That is right.

This Mr. Carter has stood up in this very court and has said to your Honor, I don't know whether the Communist Party of Los Angeles County is part of the Communist Party. He has said that in this very courtroom.

The Witness: I still don't know.

Mr. Margolis: Then I have a right to ask this question, [106] whether he acted upon the basis of information and belief to that effect.

The Court: I do not think that it is necessary for a prosecutor to have information or belief in conducting an inquiry. He conducts an inquiry. It is immaterial. The objection is sustained.

Mr. Margolis: May I be heard on it?

Here they said the purpose of this investigation was to find out whether people had sworn falsely or had spoken falsely when they said they were not members of the Communist Party. If they came in and said, are you a member of the Elks——

The Court: Of the what?

Mr. Margolis: Of the Elks, or any other organization like that, I assume that that on its face would have been obvious that they weren't pursuing that line of inquiry as they contended.

Now here Mr. Carter has said in this court, and has argued to this court, that we could not show self-incrimination on behalf of our defendants because we had not shown that the Communist Party and the Communist Party of Los Angeles County

(Testimony of James F. Carter.)

appeared to be the same organization. And I want to show here, and I offer to prove through this witness if she is allowed to answer, or ordered to answer these questions, that at all times at a time when he was standing up here before this court making those representations as an officer of the court and as an officer of the United States government, he was acting upon the basis that the Communist Party of Los Angeles County was a part of the Communist Party, and that he was not acting in good faith as an officer of this court when he made those representations.

And, incidentally, when he made them before Judge Denman in San Francisco.

The Witness: I will answer your question.

The Court: It is immaterial whether he was acting in good faith or not. I have ruled on the question. The question is immaterial.

Mr. Margolis: Your Honor, I am not offering it for showing lack of good faith, I am offering it for the purpose of showing information.

The Court: That is what you said you were offering it for.

Mr. Margolis: No. I don't insist on that.

My point is, your Honor, that there has been a question raised——

The Court: The question has been asked and it has been ruled on. Now let us proceed. Have you any more questions to ask? If so, ask him.

Q. (By Mr. Margolis): Did you ask the questions with respect to the Communist Party of Los

(Testimony of James F. Carter.)

Angeles County because you believed them [108] to be material to an inquiry as to whether or not certain government employees were or were not members of the Communist Party?

A. Let me say this first, if I may, before answering your question——

Mr. Margolis: If your Honor please, I think this man is a witness and he ought to answer the question.

The Court: I think that by this time I can take judicial notice of the fact that Mr. Carter considers all of the questions which he has asked material because he has affirmed it repeatedly in this court that they were material to the inquiry.

The Witness: I will answer that question and say that I thought my questions were material to the issues as to whether or not these employees were members of the Communist Party of Los Angeles County.

By Mr. Margolis:

Q. But you have stated here, and you have said this was the purpose of the investigation, that these government employees had said that they were not and never had been members of the Communist Party. Now would you please answer this question, whether you considered the questions with relation to the Communist Party of Los Angeles County material to that inquiry which you have said was the purpose of all these proceedings? [109]

A. I don't know personally, without reference to files, how many Communist Parties there are.

(Testimony of James F. Carter.)

The use of the word "Communist Party" on page 66 was a general term. I didn't have before me at that time the case report on each particular employee. I don't know whether the particular government employee had specified that he had not been a member of this Communist Party or another Communist Party or what Communist Party. But my questions were material to the inquiry, had that employee been a member of the Communist Party of Los Angeles County. Once we ascertained that we then could find out, if we needed to, if there were other Communist Parties that we would have to inquire into.

Q. (By Mr. Margolis): In other words, you were just sort of groping in the dark when you were asking these questions? You didn't have any information or any reason to believe that there was any connection between the Communist Party of Los Angeles County and the Communist Party?

A. I was making an inquiry into the Communist Party of Los Angeles County in so far as it concerned these employees.

Q. And you had no reason whatsoever to believe or to suspect——

The Court: Counsel, I do not know what is meant by the distinction which is continued to be made here between the Communist Party of Los Angeles County and the Communist Party. [110] Is the Communist Party designated as the Communist Party of the United States? Are they the Communist Party?

(Testimony of James F. Carter.)

Mr. Margolis: Here he refers to the Communist Party, your Honor please. Your Honor himself has said from this bench that you don't know any relationship between the Communist Party and the Communist Party of Los Angeles County. Your Honor said that in these proceedings at an earlier time. I am trying to prove that the government has been acting upon the basis of that sort of a connection, and I think this is part of the setting and I have a right to show it. The government has stood up here in court and denied it, that this is the basis on which they were acting. And they thought it was material enough to deny it, and if it was material enough to deny it, and I have a statement here to the contrary, I should be allowed to ask questions with respect to it.

The Court: The inquiry is immaterial.

Mr. Margolis: I offer to prove if this witness were allowed to answer——

The Court: Ask your questions and I will rule on them. I have already ruled that this is immaterial.

Mr. Margolis: I am making an offer of proof, your Honor, please.

That this witness would testify that the reason for asking the questions concerning the Communist Party of Los Angeles County was because he was acting upon the basis that the [111] Communist Party of Los Angeles County was part of the Communist Party with respect to which he had information concerning false statements.



(Testimony of James F. Carter.)

Mr. Goldschein: Do I understand by that that Mr. Margolis has evidence of that fact, that he says he is going to prove it?

The Court: Yes, he says he offers to prove.

Mr. Margolis: I offer to prove it and I assume that Mr. Carter is going to testify truthfully. I make that assumption.

Mr. Goldschein: He is going to prove an assumption now.

Mr. Margolis: I have made my offer of proof and it can be objected to or not.

The Court: Let me hear it. Maybe that is what the government and the grand jury are looking for. Let me hear your offer of proof. That might terminate this investigation if you can prove that.

(The record referred to was read by the reporter as follows:)

("Mr. Margolis: I am making an offer of proof, your Honor please.

"That this witness would testify that the reason for asking the questions concerning the Communist Party of Los Angeles County was because he was acting upon the basis that the Communist Party of Los Angeles [112] County was part of the Communist Party with respect to which he had information concerning false statements.")

The Court: I do not understand your offer of proof.

Mr. Margolis: I will let it stand, your Honor.

The Court: It is rejected then on the ground



(Testimony of James F. Carter.)

that it is incapable of comprehension and therefore is immaterial.

Q. (By Mr. Margolis): On or about January 26, 1949, you or someone in your office obtained an order from the presiding judge of this court for the continuance of the grand jury which otherwise would have expired shortly thereafter, this grand jury that we are concerned with.

A. Mr. Margolis, that is not a lawyer-like statement. You have a question there. I want to object to it on the ground that it assumes something that is not legally correct. Part of your question is factually correct.

Under the present rules of the Federal Court a grand jury continues over automatically for a period of 18 months. Therefore no order of any kind is actually necessary to continue the existence of a grand jury during the 18 months term.

However, out of an abundance of caution, because of the contentions that you and your counsel might make, an order was secured from the Chief Judge of this court for what it [113] was worth continuing the grand jury for the same period of time that the statute provided it was continued for.

Q. As a matter of fact, the grand jury was originally impanelled for a specified term, which period was—that is, at least the order governing provided that it was impanelled for a specified period—and that specified period I think was to expire about February 1st, isn't that so?

(Testimony of James F. Carter.)

A. That is the period of active duty, but under the new rules that became effective in 1946 I believe the grand jury serves for 18 months unless it is sooner discharged by an order of court.

Mr. Margolis: I move to strike everything from "but under the new rules" as argumentative and a question of law, not a question with respect to facts.

Mr. Carter: I object to having it stricken out. Mr. Margolis doesn't seem to know what the new rules provide.

Mr. Margolis: I know them.

The Court: The motion to strike is denied. Let us go on.

Q. (By Mr. Margolis): Now the purpose of the continuance of the grand jury at that time was to carry on this investigation which you have heretofore described and which I read to you your language from the record in this case and no other purpose, isn't that so? [114]

A. That is not exactly correct. In practically every term of the grand jury, even before the new rules, they have been continued with an order of court in order that it might complete matters that were pending.

If I recall right in this particular case there was a general order that the grand jury not be discharged in order to complete matters which were then pending before it. This was one matter that was pending. There may have been others.

(Testimony of James F. Carter.)

Q. Were there other matters pending?

Mr. Goldschein: We object, may it please the court, to this line of examination as having absolutely nothing to do with the issue at hand. As a matter of law the court is cognizant of the matter of law. The grand jury is continuing.

The Court: The last question was, were there other matters pending. Your objection is to that?

Mr. Goldschein: Yes, sir.

The Witness: I will answer that question. I withdraw Mr. Goldschein's objection.

I think there were other matters pending. There generally have been, Mr. Margolis.

Q. (By Mr. Margolis): You know that there were other matters?

A. I could not enumerate them for you.

The Court: As a matter of fact, the general practice in the community is to require service of the grand jury for [115] only six months unless there are matters pending which are not concluded so as to prevent people from having to spend a year or a year and a half away from their business or homes.

Q. (By Mr. Margolis): Let me put it this way: These four witnesses who are here, that is, Healey, Averbuck, Newman and Greenfield, were called to testify before the grand jury only with respect to the investigation which has been entitled here, Investigation by the Grand Jury Concerning Loyalty of Government Employees, and no other matter, isn't that so? A. That is correct.

(Testimony of James F. Carter.)

Q. Now prior to the time that these witnesses were subpoenaed—three of them subpoenaed and in the case of Mr. Greenfield prior to the time that he was served with a bench warrant—there had been outstanding either subpoenas or bench warrants for some considerable period of time for each of these people, is that so? A. I think so.

Q. For several months, as a matter of fact?

A. I believe so; since shortly after October.

Q. And you have here from time to time in open court referred to something which you called "Operation Get Lost," and I assume by that you meant a number of people who you believed were avoiding service of process or service of bench warrants and therefore were keeping out of the way, so to [116] speak, getting lost, is that right?

A. I referred to the fact that when an attempt was made to serve some 35 subpoenas on October 25 a service was effected on ten of them and it was impossible to effect service on the balance of them. I had no information as to what transpired. Maybe the other 25 went fishing. But at least they weren't around where you could serve subpoenas on them commencing October 25, 1948. I called that "Operation Get Lost."

Q. You believe that these people were seeking to avoid service of process or service of the bench warrants, is that right?

A. I knew that we couldn't serve them.

Q. And you included these four respondents

(Testimony of James F. Carter.)

among the people who you said were in this "Operation Get Lost," isn't that so?

A. I don't know.

Mr. Goldschein: We object, may it please the court. That is immaterial. It has nothing to do with the issue involved.

Mr. Margolis: There have been questions asked about whether these people knew there was a subpoena outstanding against them, and so forth, and I want to show again the danger and the setting. There are questions pending with respect to what I am making a showing, such as when did you [117] first learn there was a subpoena out for you, which were questions which the government has asked be answered. Therefore I have the right to establish the setting with respect to the danger in answering those questions.

The Court: You mean on the ground that they might incriminate themselves under the statute which makes it an offense to obstruct justice?

Mr. Margolis: That is right, your Honor.

Mr. Goldschein: If that is what they are worried about, may it please the court, we will just withdraw that question.

Mr. Margolis: I have asked before, if your Honor will recall, whether the government intended to proceed under all of the questions. I thought maybe they didn't want to proceed with these, but they said every question that wasn't answered.

Mr. Goldschein: We will just withdraw that one.



(Testimony of James F. Carter.)

Mr. Margolis: There are a number of those with respect to the same effect, with respect to several witnesses. If you want to we can take the time to go over them.

The Court: We might do that during recess and refer to the particular questions.

I will stay the order for your commitment, Mr. Margolis, until the conclusion of court today, at which time I will make a further order.

We will have a short recess. [118]

\* \* \*

JAMES M. CARTER

resumed the stand and testified further as follows:

Mr. Margolis: If your Honor please, took a recess in connection with certain questions which the government indicated that it desired to withdraw, and I have hurriedly looked through the record and I think I have all of the questions of that type.

Does your Honor have a copy of the transcript of May 26?

The Court: Yes.

Mr. Margolis: Page 13, line 1, the question:

“Q. All right. Mrs. Healey, when did you first learn that a subpoena had been issued for you?”

Mr. Goldschein: That question is withdrawn, may it [123] please the court.

Mr. Margolis: The next question is line 4 on the same page:



(Testimony of James F. Carter.)

“Q. You knew, did you not, that on October 25 a subpoena had been issued for you?”

Mr. Goldschein: That question is withdrawn.

Mr. Margolis: Then on the same page, line 20:

“Q. Mrs. Healey, I believe the last question was where were you prior to your returning to Los Angeles to business?”

Mr. Goldschein: That question is withdrawn.

Mr. Margolis: If your Honor will turn to page 41, the question beginning at line 25 thereof:

“Q. Mr. Greenfield, when did you first learn that there was a subpoena issued by this grand jury for your attendance here?”

Mr. Goldschein: The same questions will be withdrawn as to all witnesses before the court at this time.

The Court: Line what?

Mr. Margolis: Line 25, page 41.

If it is our understanding that all questions of this character are withdrawn——

The Court: You had better go through them, otherwise there will be some misunderstanding.

Mr. Margolis: The next one is on page 42, line 18: [124]

“Q. Where were you prior to the time that you were arrested?”

Mr. Goldschein: That is withdrawn.

The Court: What page again?

Mr. Margolis: Page 42, lines 18 and 19.

The Court: Very well.

(Testimony of James F. Carter.)

Mr. Margolis: The next one:

“Q. Where were you between October 25, 1948, and May 6, 1949?”

That is on lines 22 and 23 of the same case.

Mr. Goldschein: Withdrawn.

Mr. Margolis: Page 43, your Honor, lines 1 and 2:

“Q. You knew in October that there was a subpoena out for you, did you not?”

The Court: Do you withdraw that question?

Mr. Goldschein: We withdraw the question. What line is that?

Mr. Margolis: Lines 1 and 2 on page 43.

Then on page 49, lines 22 to 24:

“Q. Did you discuss with anybody your being sought as a witness before this grand jury, prior to May 6th?”

The Court: What page is that, counsel?

Mr. Margolis: That is page 49, lines 22 to 24.

The Court: Very well. [125]

Mr. Goldschein: That is withdrawn.

Mr. Margolis: Page 50, lines 3 and 4:

“Q. Where were you from October of 1948 up until May 6th?”

Mr. Goldschein: Withdrawn.

Mr. Margolis: Now, if your Honor please, these are all of the questions of this type that a hurried examination of the transcript indicates. I would like to reserve the right, if I have overlooked any, to raise the matter with respect to other questions later on.

(Testimony of James F. Carter.)

The Court: Very well.

Q. (By Mr. Margolis): Mr. Carter, have you ever identified the defendant, Mrs. Dorothy Healey, as a member or officer of the Communist Party in connection with this investigation?

Mr. Goldschein: We object to that, may it please the court. I don't know what he means by has he ever identified.

The Court: Objection sustained.

Q. (By Mr. Margolis): Have you ever stated in connection with this investigation that the respondent in this case, Mrs. Dorothy Healey, was a member or officer of the Communist Party?

Mr. Goldschein: Object to that, may it please the court, as being immaterial.

Mr. Carter: And on the further ground it is uncertain [126] and indefinite, does not state who, when, where and what.

The Court: It is indefinite. The objection is sustained. It is immaterial unless the statement was before the grand jury, it seems to me, counsel.

Mr. Margolis: I think it makes no difference but I will add a question—I am not withdrawing the prior question.

The Court: The objection is sustained.

Mr. Margolis: If that is indefinite I suppose I will have to start with October 25 and say, did you state on October 25 at any time that Mrs. Dorothy Healey was a member or officer of the Communist Party?

(Testimony of James F. Carter.)

Mr. Goldschein: Does he mean before the grand jury?

The Court: Do you object to it on the ground it is indefinite and uncertain?

Mr. Goldschein: Yes.

The Court: Objection sustained.

Q. (By Mr. Margolis): Did you state on October 26, 1948, before the grand jury that Mrs. Dorothy Healey was a member or officer of the Communist Party?

Mr. Carter: Objected to upon the ground that matters occurring before the grand jury are privileged, and unless the transcript is brought down before this court or otherwise made use of in a legal manner in a courtroom. Therefore I object to answering any matters concerning what went on before the [127] grand jury. Also on the further ground it is immaterial.

Mr. Margolis: This is really a novel theory, that the government having opened up the proceedings can just narrow it down to the part of the proceedings in its favor and not open up to the defendants other parts of the proceedings. It is in accordance with the general approach of the government in this case.

The Court: Just a moment, counsel. The government waived that objection when the court reporters were on the stand. I think if the government insists upon the objection now that they are entitled to it, and it will be sustained on the ground assigned.

(Testimony of James F. Carter.)

Mr. Margolis: I assume that if I were to ask that question with respect to every other date since October 26, 1948, up to the present time that there would be the same objection and the same ruling?

The Court: Are you asking him that question?

Mr. Margolis: Yes. The objection was made that the question was too broad and indefinite because it didn't define a date. I didn't understand the objection, but apparently I am supposed to ask on each date whether he made that statement. I don't want a ruling against me on the ground that I don't specify the date.

The Court: If I understand it now, what your question is to this witness is whether or not at any time before the [128] grand jury in connection with these proceedings he made such a statement.

Mr. Margolis: Yes, your Honor.

Mr. Carter: To which we object upon the same ground—or do you want to answer him, Mr. Goldschein?

Mr. Goldschein: May it please the court, I don't understand the question fully, but let me say this, if the information they are trying to elicit is whether or not the government believes that Dorothy Healey is a member of the Communist Party, then the answer is from me yes, I believe she is. I believe the witness that was on this morning, who testified to her Communist affiliation and connection and the office she held, were true, and that is what we are trying to establish now, and the purpose

(Testimony of James F. Carter.)

we want her to bring those books and records in. That is what they are leading up to. I will admit that.

Mr. Margolis: You will admit that at all times during the time that this inquiry was going on you had information and believed that?

Mr. Goldschein: No, no. I am telling you what we believe now.

The Court: Let us get back to the question.

Mr. Margolis: I refuse to be confined to that now.

The Court: Let us get back to the question. Is there an objection to the question? [129]

The Witness: I understood the question was a question as to what I may have said to the grand jury.

The Court: Whether or not you stated to the grand jury at any time during the course of these investigations that Dorothy Healey was a Communist.

Mr. Goldschein: We are objecting to that, may it please the court, as incompetent, irrelevant and immaterial, and it has nothing to do with the issues.

Mr. Carter: And on the ground also of privilege as heretofore stated.

The Court: Objection sustained.

Q. (By Mr. Margolis): Did you ever state outside of the grand jury to anyone since October 26, 1948 that Dorothy Healey was a member or officer of the Communist Party?



(Testimony of James F. Carter.)

Mr. Goldschein: We object to that statement as being immaterial.

The Court: Sustained.

The Witness: I don't mind answering that though.

The Court: It is immaterial. We have enough latitude in this thing as it is.

Q. (By Mr. Margolis): Did you ever state in the presence of the grand jury that the respondent Averbuck was a member or officer of the Communist Party? [130]

Mr. Carter: Objected to on the ground it is immaterial, and upon the further ground that proceedings before the grand jury are of a confidential nature and within the privilege of the prosecutor not to disclose.

The Court: Objection sustained.

Q. (By Mr. Margolis): Did you ever state outside of the grand jury at any time since October 26, 1948 that the respondent Averbuck was a member or officer of the Communist Party?

Mr. Goldschein: We object to that, may it please the court.

The Court: On the same grounds?

Mr. Goldschein: On the same grounds.

The Court: Same ruling.

Q. (By Mr. Margolis): Did you ever state in the presence of the grand jury that the respondent Greenfield was a member or officer of the Communist Party?

(Testimony of James F. Carter.)

Mr. Carter: Same objection as heretofore made as to the other respondents; on the ground it is immaterial, and upon the further ground that statements by the prosecutor in the presence of the grand jury are privileged.

The Court: Objection sustained.

Q. (By Mr. Margolis): Did you ever state outside of the presence of the [131] *presence of the* grand jury at any time since October 26, 1948 that the respondent Greenfield was a member or officer of the Communist Party?

A. I would like to answer that question unless the court holds it is immaterial. It has been sustained on two other questions.

The Court: If you want to answer it, if you do not object to answering it and if counsel wants an answer, go ahead and answer it.

Mr. Margolis: I certainly don't like this idea of picking and choosing, your Honor. If it is immaterial then it ought to be ruled that it is immaterial.

The Court: That is what I thought, but the witness says he does not object. Do you wish an answer?

Mr. Margolis: I wish an answer to all of the questions.

The Witness: I am not talking now about the question before the grand jury, I am talking about the questions you asked me about Healey, the questions you asked me about Averbuck and Greenfield.

(Testimony of James F. Carter.)

I do not recall that I have stated outside of the presence of the grand jury—referring now only to matters outside of the presence of the grand jury—that any of these people were Communists.

I did state, however, in a talk made before the Lions Club at the Biltmore Hotel that we had certain witnesses up [132] here that I didn't know whether they were Communists or not, but the People's World said that they were members of the Communist Party, and maybe that was correct, if the People's World said so.

Q. (By Mr. Margolis): Is that the substance of what you said?

A. That is the substance of what I said on that subject.

Q. Did you make any statement indicating your belief that they were Communists?

A. No, I don't think I did.

Q. When you spoke before the Lions Club, referring to these proceedings, you said with respect to these proceedings, did you not:

“The proceedings were an education for the grand jury. People are apt to think of Communists as men with long hair and loud raucous voices. As a matter of fact, they look like any American citizen.

“All the men in this case were World War II veterans. You would pass them by in a crowd without suspecting they might belong to a secret conspiratorial organization. Some of them made much about being veterans. But when members of the

(Testimony of James F. Carter.)

jury came to see that they were World War II veterans [133] at a time when Russia was our ally, they felt a little differently about it.

“One of these men told me that he had two small children and would not have been drafted; that he volunteered. I said, ‘So you were patriotic and wanted to defend your country?’

“Then I asked him, ‘If we would have war against Russia tomorrow would you volunteer to fight?’ He wouldn’t answer that question; he wanted to see his lawyer first. His lawyer advised him not to answer it because it was an ‘iffey’ question—a war with Russia was not possible.”

Is it a fact that you made those statements in your speech before the Lions Club?

A. Not exactly. I made some statements which you are apparently reading from some newspaper report that wasn’t taken down verbatim.

I talked before the Lions Club and stated I didn’t know whether these people were Communists or not, that the People’s World said that they were but if they were it was a pretty serious problem for the reason that these men in particular, who had appeared before this court and grand jury, looked like just ordinary Americans, you would pass them in a crowd and not notice them, and that the test generally of whether a person was a Communist or not was whether or not [134] he followed the Communist Party line, that the Communist Party line is a simple thing to determine because you just

(Testimony of James F. Carter.)

ask the question, what is good for the Soviet Union, and when you get the answer to that you have the party line.

For example, I said the Marshall Plan was not good for the Soviet Union; therefore the party line was against the Marshall Plan.

The Atlantic Pact was not good for the Soviet Union; therefore the Communist Party line was against the Atlantic Pact.

And I said that it was rather interesting some of the testimony that had come out concerning Mr. Newman here, who was one of the witnesses. The testimony had been read before this court and was now a matter of public record, that when interrogated before the grand jury he had injected into it the question that he was a World War veteran, a World War II veteran, and didn't have to go, that he had enlisted. So I asked him if he had enlisted in order to serve the United States, and he said, "Yes."

"And to fight for this country because he loved it?" And he said, "Yes."

I said, I asked him the further question, "If war broke out tomorrow with the Soviet Union, would you again enlist?" And he couldn't answer the question. Finally he had to ask to see his lawyer.

I said that might be explained upon the ground that during World War II the Soviet Union was an ally, therefore people who might be members of the Communist Party when they fought for this



(Testimony of James F. Carter.)

country were at the same time fighting for the Soviet Union. But since Russia was no longer an ally, Mr. Newman's answer to that question was very illuminating.

I also said, if you want to know what I said at the Lions Club, that we have a treason law which provides that treason consists of aid and comfort to the enemy, adhering thereto, in time of war. There is no treason law in peacetime. But that if war should break out with the Soviet Union, and God forbid that it should, every member of the Communist Party would be a potential traitor.

Mr. Margolis: All right.

Q. Did you say during that talk that a colossal joke is being played on the American people?

A. Yes, sir, I did. I said that if people were alive in this old world a couple of thousand years from now, and if the Communist Party should succeed in overthrowing the government of the United States by their hiding behind the constitutional guarantees and the Bill of Rights, that those people who lived 2000 years from now would look back and say that that was the most colossal joke ever played upon mankind, that a group of people seeking to destroy the government of the United States, hiding behind the Bill of Rights and the Constitution, [136] were permitted to go ahead and destroy that government because of the government's failure to see what was happening, and it would be the most colossal joke ever played upon mankind from the beginning of time on.



(Testimony of James F. Carter.)

Q. What you are referring to as hiding behind the Bill of Rights was hiding behind the Fifth Amendment to the Constitution, wasn't that right?

A. Hiding behind any constitutional guarantee if the hiding behind that guarantee is done for the purpose of overthrowing the government and if the government should be so overthrown by that activity.

Q. But you are referring particularly to the action in these proceedings with respect to the Fifth Amendment, are you not?

A. I was referring generally to the manner in which Communists claim constitutional rights under a Bill of Rights and a Constitution and at the same time apparently would destroy that very document and the government that it rests upon.

Q. And you were proceeding upon the basis then that the Communist Party of the United States, the Communist Party of Los Angeles, was an illegal conspiracy to overthrow the government of the United States, is that right?

A. I didn't specify either Communist Party of the United States or of Los Angeles County; I just talked about [137] the Communist Party.

Q. And that is what you said about the Communist Party, is that right?

A. That is what I said about the Communist Party, that is right. That is the meeting you missed, Mr. Margolis. Your people cover all my other meetings but they missed that one. That is why you had to rely on a newspaper.

(Testimony of James F. Carter.)

Q. I have heard enough of you in court, Mr. Carter; I don't have to go to any of your meetings.

A. I am referring to some of your clients and supporters.

Q. I haven't any.

You were speaking in the course of this about these particular grand jury proceedings, were you not?

A. Oh, I was talking about—in the course of the talk I mentioned this grand jury proceeding, but that was not the entire discussion. There were many other matters discussed.

Q. But speaking of these proceedings you said, did you not, "The proceedings were an education for the grand jury"?

A. Something to that effect; yes, I did.

Q. You said also, "People are apt to think of Communists as men with long hair and loud raucous voices"; you said that, substantially?

A. I already answered that. I told you all I recalled [138] of what I said.

Q. Did you or did you not also say that?

Mr. Goldschein: I think we have gone into that as far as we ought to. We can't continue with what Mr. Carter said on the outside all night because he said a whole lot of things. Now I don't think they are of such importance to the issues that we ought to drag it out and lengthen the hearing.

The Court: The question is asked and answered.

Mr. Margolis: I have never asked this particular

(Testimony of James F. Carter.)

question as to whether he said these particular specific words.

The Court: Yes, you read the whole thing to him and asked him whether or not he said that, and then he went on and he just got through answering.

Mr. Margolis: He said not in its entirety and now I want to break it down and take each sentence and have him state with respect to each sentence.

He has never answered this specific question, your Honor, and I think I have a right to have the answer to this question.

The Court: The objection is sustained.

Q. (By Mr. Margolis): Did you say, during the course of this speech, "As a matter of fact, they look like any American citizen"?

Mr. Goldschein: May it please the court——

Mr. Carter: That has already been asked and answered. [139]

Mr. Goldschein: The question has been asked and it has been answered. It has been gone over twice.

The Court: Objection sustained.

Q. (By Mr. Margolis): Did you say, during the course of this speech, "All the men in this case were World War II veterans"?

Mr. Goldschein: I object to that, may it please the court, for the same reasons heretofore stated.

The Court: Objection sustained.

Q. (By Mr. Margolis): Did you say during the course of this speech, "You would pass them by

(Testimony of James F. Carter.)

in a crowd without suspecting they might belong to a secret conspiratorial organization”?

Mr. Goldschein: We are objecting to that on all grounds stated, and suggest that we get on into another line of cross-examination. That one has certainly been exhausted.

The Court: Yes. The objection is sustained, counsel. I think if you are reading from the article which you read from first the witness has wholly answered the question.

Mr. Margolis: I would like the record to show, your Honor—do I understand that I must desist from this line of questioning?

The Court: I think it has all been asked and answered. I am asking you, are you reading now from the article which you read from a while ago when you asked the witness a question? [140]

Mr. Margolis: I am reading one sentence at a time. I read it in its entirety before and I am reading one sentence at a time now.

The Court: Then it has been asked and answered.

Mr. Margolis: Does the court order me to desist from asking these questions?

The Court: Yes, I think so.

Mr. Margolis: Then I would like the record to show that but for this order I would ask questions with respect to each individual sentence in this statement which appears in the press, and I would like to know if there is any objection, as far as counsel

(Testimony of James F. Carter.)

is concerned, to this particular article in the newspaper. It appears in the Los Angeles Times, Saturday, May 28, 1949.

Mr. Goldschein: He has read it into the record. I don't think it is necessary.

Mr. Margolis: I want to offer it for another purpose.

The Court: What other purpose?

Mr. Margolis: I want to offer it on the same basis as the other newspaper articles were offered, to show a legitimate basis for fear of self-incrimination on the part of these individuals.

The Court: Admitted in evidence.

Mr. Margolis: I am offering only that portion of this [141] page, consisting of one column, headed, "Attorney Says U. S. Reds Play Joke On People." I am offering no other part of it because no other part of it is material.

The Clerk: First exhibit in this hearing your Honor?

The Court: Yes. This is the first exhibit in this hearing and I think you could date it June 9, Exhibit A.

(The article referred to was marked Respondents' Exhibit A, June 9, 1949 and received in evidence.)

(Testimony of James F. Carter.)

## RESPONDENTS' EXHIBIT A

(Article in Los Angeles Times Part II, page 5, Saturday, May 28, 1949.)

Admitted June 9, 1949.

### Attorney Says U. S. Reds Play Joke on People

"Those who follow the party line have one question to test their answer to any situation: 'Is it good for the Soviet Union?' " according to James M. Carter, U. S. attorney here. He told members of the Lions Club meeting at the Biltmore yesterday about the recent Federal grand jury inquiry into Communist activities here.

"A colossal joke is being played on the American people," he said. "Sometime we will look back upon it with amazement. The joke is that a group of people seeking to overthrow the U. S. government are hiding behind the Constitution and Bill of Rights—the very instrument that they seek to destroy."

### 'Education for Jury'

Carter said there was some criticism of the conduct of the investigation before U. S. Judge Peirson M. Hall because the court sessions were held at night. He said that the 23 citizens on the grand jury who were giving their time for small remuneration wished it so as a convenience to them, so that the case could be quickly finished.

"I think that their interest and convenience was more important than that of those whose loyalty was being questioned.



(Testimony of James F. Carter.)

“The proceedings were an education for the grand jury. People are apt to think of Communists as men with long hair and loud raucous voices. As a matter of fact, they look like any American citizen.

‘All Were Veterans’

“All the men in this case were World War II veterans. You would pass them by in a crowd without suspecting they might belong to a secret conspiratorial organization. Some of them made much about being veterans. But when members of the jury came to see that they were World War II veterans at a time when Russia was our ally, they felt a little differently about it.

“One of these men told me that he had two small children and would not have been drafted; that he volunteered. I said, ‘So you were patriotic and wanted to defend your country?’

“Then I asked him, ‘If we would have war against Russia tomorrow would you volunteer to fight?’ He wouldn’t answer that question; he wanted to see his lawyer first. The lawyer advised him not to answer it because it was an ‘iffey’ question—a war with Russia was not possible.”

Mr. Margolis: I would like to offer also a portion of the Los Angeles Daily News for Friday, May 27, 1949, a column headed, “Mrs. Healey Clams Up On Red Activities,” in particular that portion of the newspaper article saying:

“Mrs. Healey—or Connelly—was one of three Communist Party members called before the grand

(Testimony of James F. Carter.)

jury as part of the lengthy investigation into party activities in the county.

“With her were Alvin Averbuck, party organizer for the eastern area of the county, and Elvador Greenfield, harbor organizer for the local Communists.”

And also a portion reading:

“Pretty Mrs. Dorothy Healy, county Communist Party organizing secretary, deadpanned it in Federal Court today while a court reporter read into the record her equally dead-pan refusal to [142] tell the Federal grand jury about Communist activities here.”

I would like to offer that as our exhibit next in order.

Mr. Goldschein: We are objecting to that, may it please the court. I don't think that Mr. Margolis should be permitted to both read them into the record and then place the physical paper in the record.

The Court: It may be marked for identification.

Mr. Margolis: I did the reading indicating the portion of the article that I was offering.

The Court: It will be marked for identification as Exhibit B. It is not admitted in evidence.

(The article referred to was marked Respondents' Exhibit B, June 9, 1949 for identification.)

(Testimony of James F. Carter.)

RESPONDENTS' EXHIBIT B

(Article in Los Angeles Daily News page 10-A Los Angeles Daily News Friday, May 27, 1949.)

Not admitted.

Mrs. Healey Clams up on Red Activities

Pretty Mrs. Dorothy Healey, county Communist Party organizing secretary, deadpanned it in Federal Court today while a court reporter read into the record her equally dead-pan refusal to tell the Federal Grand Jury about Communist activities here.

However, she opened up before Federal Judge Peirson M. Hall long enough to admit coyly that she really is Mrs. Philip Connelly. He formerly was executive secretary of the Los Angeles CIO Council.

Mrs. Healey—or Connelly—was one of three Communist Party members called before the Grand Jury as part of the lengthy investigation into party activities in the county.

With her were Alvin Averbuck, party organizer for the eastern area of the county, and Elvador Greenfield, harbor organizer for the local Communists.

The transcript of testimony given by the trio before the jury was read into public records by E. L. Drummond, reporter.

Among the questions asked of Mrs. Healey, which

(Testimony of James F. Carter.)

she refused to answer on her constitutional rights, were:

“Do you know who is the party organizer? Do you know who has the books and records for the Los Angeles County Communist Party? And who is the educational, labor, membership or social director of the group?”

The other two witnesses were similarly subjected to questions they decided were unanswerable at this time.

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Mr. Margolis: Is that on the ground of lack of foundation, your Honor, that it is a newspaper article, because I will offer evidence to that effect if it is necessary.

The Court: I think I can take judicial notice of the fact that the Daily News is a newspaper of general circulation in this community. To me it lacks foundation in this respect—and I do not think it should be admitted—it relates to proceedings that were in this court when these witnesses were in this court. It is a newspaper report of those proceedings. They had personal knowledge and actual knowledge of what occurred. Therefore they cannot be prejudiced [143] by any statement of a newspaper which reports the proceedings, whether they are right or wrong.

Mr. Margolis: We are not offering them for that purpose.

However, I didn't intend by my question with

(Testimony of James F. Carter.)

respect to foundation to go into that matter. The only point I wished to raise was whether the ruling was based in whole or in part that we had not proved that this was from the newspaper as it appears on its face to be.

The Court: I have indicated the basis of my ruling.

Mr. Margolis: I would like to offer the portions circled in red from the following newspaper articles:

Page 20 of the Los Angeles Evening Herald and Express, Thursday, May 26, 1949. That deals with the same general subject matter.

The Los Angeles Daily News for May 26, 1949.

The Herald-Express for May 27, 1949.

And the Los Angeles Times for May 27, 1949.

The Court: They will be marked for identification.

Is there any objection to their introduction into evidence?

Mr. Goldschein: Yes, sir. I object to them as being immaterial, irrelevant and incompetent, and no bearing on the issues involved here.

The Court: They are incompetent. They will not be admitted in evidence but will be marked for identification. [144]

The Clerk: Exhibits C, D, E and F.

(The articles referred to were marked Respondents' Exhibits C, D, E and F, June 9, 1949 for identification.)

(Testimony of James F. Carter.)

### RESPONDENTS' EXHIBIT C

(Article from Los Angeles Daily News page A-3 Thursday, May 26, 1949.)

Not admitted.

Two men and a woman purportedly holding top drawer jobs in the Communist Party's county organization today went before a secret session of the Federal Grand Jury.

They are Dorothy Ray Healey, described as organizational secretary of the CP in this county, and Alvin Averbuck and Elvador Greenfield, organizers.

### RESPONDENTS' EXHIBIT D

(3 column photo and caption appearing in the Los Angeles Evening Herald & Express page A-20 Thursday, May 26, 1949.)

Not admitted.

#### Long-Missing Red Case Witness Turns Up

Mrs. Dorothy Ray Healey, long sought in the Federal Grand Jury's inquiry into Communist activities here, finally appeared before the jury today. She's shown with Alvin Averbuck, left, and Elvador Greenfield, asserted organizers for the party.

(Article in the Los Angeles Evening Herald & Express page A-2 Thursday, May 26, 1949.)

Not admitted.

L. A. Red Quiz—Dorothy Healey Goes Before  
Grand Jury



(Testimony of James F. Carter.)

Dorothy Ray Healey, organizational secretary of the Communist party in Los Angeles county, today went before the Federal Grand Jury in its inquiry into Southern California Communist activities.

The Federal Grand Jury has been seeking Mrs. Healey for many months for questioning, but she was served with the subpoena only recently.

At the same time Alvin Averbuck, organizer for eastern Los Angeles county of the party, and Elvador Greenfield, harbor organizer, appeared before the federal inquisitorial body in answer to subpoenas.

Mrs. Healey has been the femme fatale of witnesses subpoenaed in the inquiry. Nearly a score of witnesses have been sent to jail by Federal Judge Peirson M. Hall in the case for contempt of court when they refused to obey orders to tell the grand jury whether or not they knew Mrs. Healey.

## RESPONDENTS' EXHIBIT E

(Article in the Los Angeles Evening Herald & Express page A-10 Friday, May 27, 1949.)

Not admitted.

Almost the only bit of information obtained was extracted from Mrs. Dorothy Ray Healey, organizational secretary of the Los Angeles County Communist Party, who disclosed that she is married to Philip M. (Slim) Connelly, former executive secretary of the Los Angeles C. I. O. Council.

(Testimony of James F. Carter.)

### RESPONDENTS' EXHIBIT F

(Article in Los Angeles Times Friday, May 27, 1949, part II page 1.)

Not admitted.

The witnesses were Mrs. Dorothy Ray Healey, organizational secretary of the Communist Party of Los Angeles County; Elvador C. Greenfield, an organizer in the Harbor area for the party, and Alvin Averbuck, organizer for the party in the eastern section of the county.

Mr. Margolis: Is that incompetence based on the fact that your Honor does not consider them to have been proved to be newspapers, because we don't want to fail on that purely technical basis which we can prove?

The Court: I have indicated the basis of my ruling.

Mr. Margolis: I would like then, your Honor, for subpoenas to be issued to these various newspapers so that I can establish at least that these are from the newspapers. Now it appears on their face that they are so I don't see why we can't have a stipulation to that effect.

The Court: I thought I indicated to you, counsel, that I could take judicial notice of the fact that the Daily News is a newspaper. Do you want me to take judicial notice that the Herald-Express is a newspaper?

Mr. Margolis: No, but the point is that these

(Testimony of James F. Carter.)

are articles from those papers. That is the point.

The Court: On or about the date they bear.

Mr. Margolis: That is right.

Mr. Carter: We concede that.

Mr. Margolis: Very well, if that is conceded we are satisfied.

No further questions from Mr. Carter. [145]

The Court: Step down.

(Witness excused.)

Mr. Margolis: I will now ask the court to take judicial notice of two orders. One is the order directing the impaneling and the order impaneling the grand jury here involved. I do not have the minute book reference to that order.

I will also ask the court to take judicial notice of the entry at Volume 68 of the minute book of the Central Division, January 26, 1949, page 221, showing a petition that the grand jury be continued for the reason that said grand jury has begun but not finished divers investigations——

The Court: You have a copy of the minutes there?

Mr. Margolis: I have a partial copy of it, your Honor. It is in pencil. I thought it was a matter of which your Honor could take judicial notice.

The Court: I think I can take judicial notice but if you want me to know what is in it I have to see it.

Mr. Margolis: I copied part of it.

The Court: The Clerk can go in and get it.

Volume 68 of the minutes of the Central Division.

Do you know the reference?

Mr. Margolis: No, but I will be glad to get it for your Honor.

The Court: What about the other impanelment of the grand jury originally? [146]

Mr. Margolis: I don't have the reference but I will be glad to furnish it.

The Court: What is there about this that is material here?

Mr. Margolis: I want to show that it was impanelled for, I think, a 6-months period which expired on or about February 1st.

The Court: If you can find a copy of that I would like to read it. I do not propose to dig through the records and look for it myself.

Mr. Margolis: Your Honor, I shall furnish the citation tomorrow, but I would ask, if I furnish the citation, that your Honor considers that he can take judicial notice of those records.

The Court: I shall take judicial notice of it; surely.

Mr. Margolis: I would like to consult with counsel.

(Conference between counsel.)

Mr. Margolis: Your Honor, I think we are finished. I would like to have the same courtesy that the government had the other day and ask that this matter go over—it is almost 4:00 o'clock—until tomorrow morning, at which time we will be prepared to present anything else that we have.

The Court: If you wish to consult with your

clients, we will have a few moments recess. I think the matter of the objections or the evidence should be concluded today if possible. [147] So we will have a few moments recess while you consult with your clients and come to a conclusion.

(Short recess.)

The Court: Mr. McTernan, if you have no further material this afternoon I will continue the whole matter until tomorrow morning.

Mr. McTernan: We have material which will take about two minutes to present and then we are through.

The Court: Very well. I intend to continue the whole matter until 10:00 o'clock tomorrow anyhow.

Mr. McTernan: If you wish, we can go ahead with this and then continue it.

The Court: I continued the matter relating to Mr. Margolis, and you will have to be here in connection with that matter, and there is a question in my mind whether that is a part of this proceeding or not a part of this proceeding. So you may proceed to conclude with what you have now.

Mr. McTernan: Very well.

We offer, your Honor, an excerpt from the Fourth Report, Un-American Activities in California 1948, Communist Front Organizations, Report of the Joint Fact-Finding Committee to the 1948 Regular California Legislature, Sacramento 1948, published by the Senate of the State of California, and issued by the Fact-Finding Committee on Un-American Activities of the California Senate. [148]



Mr. Carter is willing to waive foundation in so far as identification of the document through Mr. Tenney, or any other person capable of identifying it.

The excerpt which I will read first comes from page 212, runs over to page 214, but I am not going to read it all, just sections within those two pages.

The section begins with a heading "Communist Party" on page 212.

"The Communistic Party keeps its publicly avowed members down to the smallest possible number. The national headquarters of the Communist Party of the United States is located at 35 East 12th Street in New York City.

\* \* \*

"The national chairman of the Communist Party is William Z. Foster, possibly one of the most outspoken traitors the United States has ever tolerated."

Mr. Goldschein: Wait a minute. Are you skipping or what?

Mr. McTernan: I said I was reading portions from it. You will notice one paragraph omitted with reference to the Daily Worker.

Mr. Goldschein: I am sorry.

Mr. McTernan: Continuing: [149]

"The general secretary is Eugene Dennis, alias Waldron. The administrative secretary is John Williamson. The office of treasurer is vacant since the death of Charles Krumbein.

"A national secretariat is composed of William Z. Foster, Eugene Dennis, Robert Thompson, John Williamson, Benjamin J. Davis, Jr., John Gates,



Gil Green, Gus Hall, Irving Potash, Jack Stachel, Carl Winter, and Henry Winston.”

Now skipping to page 213, about a third of the way from the bottom of the page, counsel, beginning with “The California headquarters.”

“The California headquarters is now located at 942 Market Street in San Francisco. William Schneiderman is the California state chairman; Loretta Starvis, organizing secretary; Anita Whitney, state treasurer; Mickey Lima, state field organizer; Celeste Strack, state educational director; Leo Baroway, People’s Daily World circulation director; George Kaye, youth commission chairman; A. Olken, chairman, Jewish commission; Ida Rothstein, state press director; and George Kaye, state youth director.”

Skipping a couple of paragraphs to the paragraph beginning at the bottom: [150]

“Nemmy Sparks is the chairman of the Los Angeles County section. The Los Angeles County section includes the following: Ben Dobbs, labor secretary; Elizabeth Ricardo, press director; Pettis Perry, minorities chairman; Dorothy Healy, organizing secretary; Sidney Burke, editor People’s Daily World; Emil Freed, chairman, Sixteenth Congressional District; Alvin Averbuck, section organizer; Harry Daniels, legislative director; Jim Forrest, harbor section organizer; Merle Brodsky, veterans director; Phil Bock, youth director; and Mort Newman, Carver Club section secretary.”

Reading also, your Honor, from page 383 of that

report, beginning with the heading "Worker's Alliance of America."

"This organization has been discussed at length in previous committee reports.

"Former Attorney General Biddle, in his decision ordering the deportation of Harry Bridges, made the following statement concerning the Worker's Alliance:

" 'The (Communist) Party took control of the Worker's Alliance as a medium through which to organize the unemployed, "to develop widespread militant mass struggles," and "to build the revolution" through association in "a militant class [151] conscious unemployed organization." ' "

Continuing:

"The Worker's Alliance of America was formed through a merger of three larger groups which had been working for some years among the unemployed. These three groups were the Worker's Alliance, National Unemployed League, and the National Unemployment Councils. During its five years of active operation, the Worker's Alliance of America was headed by David Lasser with Herbert Benjamin as national secretary-treasurer. Benjamin has been one of the top leaders of the Communist Party for many years, having served on the party's national committee.

"The National Unemployed Leagues were under the leadership of Arnold Johnson, who had openly supported the Communist Internationale.

"Among those who were affiliated with the Work-

er's Alliance of America are the following: Alexander Noral, Harold Brockway, Oscar Fuss, Charles Baxter, Herman Brown, Carroll Burke, J. M. Cheyney, Paul George, E. C. Greenfield, Charles Howard, Amos Murphy, Mildred Ward, Frankie Duty, Willis Morgan, Brendan Sexton, and Sam Wiseman."

This is our offer from this report. [152]

The Court: The E. C. Greenfield and the Averbuck referred to there are the same Mr. Greenfield that is here and the same Mr. Averbuck?

Mr. McTernan: They bear the same names, your Honor.

Mr. Goldschein: We are objecting to that, may it please the court, as being immaterial, irrelevant, and it has absolutely nothing to do with the matter at bar before this court.

The Court: You have read it in evidence.

Mr. McTernan: We offer it, your Honor, for the same purpose as I set out at some length to your Honor in one of the early cases.

The Court: The objection will be overruled. It is read in evidence and it will be deemed in evidence. I think I am being consistent with my previous ruling in that respect.

Mr. Carter: I take it Mr. McTernan vouches for the material that he offers, which is customary practice for a lawyer.

Mr. McTernan: I make the statement to the court similar to the one I made before. I borrowed the book from Mr. Carter, followed his markings in

it, and I do not vouch for the report, nor the methods by which it was compiled, nor for any of the statements in it. In fact, I condemn the committee as a lawyer, your Honor, and as a citizen I think it is engaged in a highly un-American and highly un-constitutional function very similar, your Honor, to the function on which Mr. Carter [153] has launched the grand jury in this case, in my opinion.

The Court: Counsel's remarks will be stricken from the record as immaterial and impertinent.

Mr. Goldschein: I have another question on this, may it please the court. I notice he mentioned the name of "Dorothy Healy," and I understood him to read it as organizational secretary. Am I correct in that? What page was that you read from?

Mr. McTernan: I read from pages 213 and 214, counsel.

Mr. Goldschein: Yes. At the bottom of page 213, as I see it, Mr. McTernan read, "Dorothy Healy, organizing secretary." I understand he means of the Communist Party here. That is what it says: "Nemmy Sparks is the chairman of the Los Angeles County section."

Now do I understand that by the introduction of this counsel is admitting that Dorothy Healey is organizational secretary of the Communist Party?

Mr. Margolis: Counsel knows better than that. We are offering this evidence for the purpose of showing that the claim is made with respect to each of these defendants, or each of these respondents, that they are in some way connected with the Com-

munist Party and that therefore there is a danger to them. We are not vouching for the truth of any of the statements made in that. It is hearsay for any other purpose except to prove that the danger exists. [154]

The Court: Is the "Dorothy Healy" referred to in the book the same person as the Dorothy Healey that is here?

Mr. Margolis: All we can say, your Honor, is that the name of this "Dorothy Healy" and the name Dorothy Healey who appears here are the same and that this indicates a danger to her.

The Court: If they are not the same person it is wholly immaterial.

Mr. Margolis: We are offering it for the purpose of showing, your Honor, that a person having the same name, and if your Honor will look at the Weisman case I think your Honor will find that this is precisely the type of evidence which was accepted there, that a person having the same name is referred to as an organizational secretary of the Communist Party and that therefore there is a danger to her. It is offered for that limited purpose and for none other.

The Court: Counsel, have you finished there?

Mr. McTernan: May I see the book again?

(The volume referred to was passed to counsel.)

Mr. McTernan: May I point out to your Honor that the "Healy" that is mentioned in this report is spelled H-e-a-l-y, and I understand that



the record here spells the name of Dorothy Healey as H-e-a-l-e-y.

We are offering this material, as Mr. Margolis said, because of the close similarity of the names indicating the [155] risk of prosecutions of these people by virtue of the opinions of the Attorney General and his deputy in this area, Mr. Carter, that the Communist Party advocates the overthrow of the government by force and violence, the thing to which Mr. Carter testified under oath a few minutes ago.

Mr. Carter: It seems to me that counsel has to take a position that either these are the same people or they are not. I don't think an officer of this court can blow hot and cold. I think he should be made to be put on record as to whether it is his contention that these are the same people named. I take it that he does so contend or he wouldn't offer it. But when he gets up to argue he argues the reverse.

The Court: It leaves me as a judicial officer in something of a dilemma. Counsel offers it and says he does not vouch for its accuracy or the truth of the statements and that he did not concede that the people named are the same people. It would seem to me that one or the other should be done.

Mr. McTernan: Your Honor, I would like to try to clarify our position in that if your Honor is confused because I think the record should be clear and we should be given a full opportunity to decide this legally.



If you will recall the Weisman case——

The Court: Yes, I remember. It related to newspaper reports. [156]

Mr. McTernan: The showing simply was that a person who fitted the description of Weisman was a person against whom——

The Court: It was more than a mere name though.

Mr. McTernan: There was no name at all; it was simply a description of him which fitted him.

Mr. Goldschein: Then it couldn't have been anybody else.

The Court: Is there a description of Dorothy Healey in the book?

Mr. McTernan: There is a description by similarity of name which we submit to your Honor is perhaps even closer than the similarity involved in the Weisman case.

Now let me point this out to you, your Honor: Nowhere beginning with *In Re Willie* and coming forward has any court held that in order to claim the privilege the witness must identify himself as the culprit or the potential culprit of the kind of crime for which he fears incrimination. He need only show a reasonable likelihood of danger to himself.

The Court: I understand that, counsel.

Mr. McTernan: And your question, and counsel's questions are directed to asking us to say here in open court that these people are Communists and therefore are subject to the kind of indictment

which Mr. Carter has made abundantly clear this afternoon will follow because it is his opinion as a law-enforcement officer that the Communist Party and its members advocate the overthrow of the government by force and [157] violence.

The Court: If you were offering that document and vouching for its truth and accuracy, then your position would be well taken. But you are not vouching for the truth or accuracy of the document. You say it is just something that has no foundation and you condemn it. Now if you condemn it as the rankest kind of hearsay——

Mr. McTernan: I did not condemn it as the rankest kind of hearsay. I condemned it as the product of a highly unconstitutional adventure on the part of a government agency.

The Court: I misunderstood you then. I thought that either you or Mr. Margolis said that it was.

Mr. McTernan: We admitted that it was hearsay for any purpose other than to show the reasonable likelihood of danger to these people because of the appearance of names identical with or similar to theirs connected with the Communist Party.

Your Honor may recall that we sent through this at great length in the criminal contempt cases involving Kasinowitz, Steinberg and Dobbs.

The Court: Yes, I remember. In any event the matter is read into evidence and you have stated your position, have you?

Mr. McTernan: I think so, your Honor.

The Court: Very well. [158]

Mr. McTernan: At this time we rest.

Mr. Goldschein: The government moves to strike it from the record, your Honor.

The Court: The motion is denied. [159]

\* \* \*

### CERTIFICATE

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 21st day of June, A.D., 1949.

/s/ AGNAR WAHLBERG,  
Official Reporter.

[Endorsed]: Filed July 28, 1948. [161]

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June 10, 1949

\* \* \*

The Court: Before passing on that motion, there were matters which were not concluded yesterday to which Mr. McTernan adverted in his statement. Let me see the minutes, Mr. Clerk.

(The documents referred to were passed to the court.)

The Court: I have here Volume 66, Minute Book of the Central Division, of the records of this court from 8-27-48 to 10-26-48. At page 141 thereof appears the minutes of September 15, 1948, before Judge McCormick, the chief judge, for the impanelment of both the trial and grand jurors, the order for the impanelment of the grand jury appearing at page 143.

Do you wish that read in the record, Mr. McC Ternan?

Mr. Margolis: I asked for it to be read into the record yesterday. I asked your Honor to take judicial notice and I think it should be in the record.

The Court: I will take judicial notice of it and read it into the record now. It is not long.

“Los Angeles, Wednesday, September 15, 1948, McCormick.

“There being now present and found qualified more than 23 veniremen, it is ordered that the names of said veniremen be placed in the jury box, and that the clerk draw therefrom twenty-three (23) names, [167] the persons whose names are so drawn, to constitute the grand jury for the September, 1948, term of this court; and the names of those qualified having been placed in the jury box by the clerk pursuant to court's order, twenty-three names are drawn by the clerk therefrom, said names being as follows:

"Roland B. Ahlswede	"James Maas
"Nordahl F. Arnesen	"Oscar Raspach
"William Badd	"Christine L. Reynolds
"Frances K. Birch	"Adolph C. Schulze
"Robert C. Bruce	"J. William Slater
"Conway R. Burns	"Zeb A. Terry [168]
"Caroline Dapper	"John R. Thompson
"Lawrence E. Fahy	"Dorothy R. Vivian
"Edward H. Fukumoto	"Zita W. Allen
"Charles Jacobs	"Nettie H. Zimmer
"Grace Kater	"Elaine L. Zuercher
"Joseph Kelman	

"And the court having ordered that the veniremen whose names are not drawn from the jury box be excused for the term, to wit:"

And then there follows the list of names other than the 23, which I do not think it will be necessary for me to read.

"The court, at this time, appoints Roland Benjamin Ahlswede as foreman and Nordahl Frederic Arnesen as deputy foreman of the grand jury, and the statutory oath as foreman of the grand jury is thereupon taken by both of the said jurors; whereupon, the other persons so found qualified and drawn, take the same oath which their foremen have taken, and the court thereupon instructs the grand jury, aforesaid, as to their duties as such jurors, and the law relative to proceedings before a grand jury, said grand jury thereupon retire with Ray H. Kinnison, Assistant United States Attorney, to complete their organization by the election of a sec-

retary and to transact any [169] business of the court that may be presented to them.”

That is the end of the minutes on that day.

The other minutes to which you referred were those of January 26, 1949. I think it was volume 68 that you referred to yesterday—I have the page here which I extracted from the book.

Mr. Margolis: It was 68.

The Court: Because the book itself is in use in one of the other courts.

Page 221:

“Los Angeles, Wednesday, January 26, 1949, McCormick, 10:00 a.m.

“Present: Hon. Paul J. McCormick, District Judge;

“In Re Continuing for Service )

“The grand jury impaneled September 1948)

“Court orders that the following order be filed and entered in minutes:

“In the United States District Court, Southern District of California, Central Division

“IN THE MATTER OF CONTINUING FOR  
SERVICE THE GRAND JURY IM-  
PANELED AT THE COMMENCEMENT  
OF THE SEPTEMBER, 1948, TERM OF  
COURT.

“Comes Now James M. Carter, United States Attorney for the Southern District of California, and petitions [170] that the grand jury impaneled by the above entitled court for the term beginning the second Monday in September, 1948, be con-



tinued for the reason that said grand jury has begun but not finished divers investigations of violations of the laws of the United States, the continuance being for the purpose of finishing such investigations and taking such action by indictment or otherwise as may appear to the grand jury to be proper.

“Dated: January 24, 1949.

“JAMES M. CARTER,

“United States Attorney.

“Upon reading and considering the foregoing petition, all resident district judges concurring herein,

“It Is Hereby Ordered that the grand jury impaneled for the September, 1948, term be, and the same is, authorized to continue to sit during the succeeding term of said court beginning on the first Monday of February, 1949, until discharged or until the expiration of eighteen months from and after the date of its impanelment whichever shall first occur, for the purpose of completing investigations commenced but not concluded by said grand jury and to take such action by indictment, or otherwise, as such investigations will warrant. [171]

“Dated: January 26, 1949.

“PAUL J. McCORMICK,

“U. S. District Judge.

“Filed January 26, 1949.

“EDMUND L. SMITH,

“Clerk,

“By THEODORE HOCKE,

“Deputy Clerk.”

You can take those back to the Clerks' office where they may be needed, Mr. Bailiff.

The Bailiff: Yes, your Honor.

The Court: As I understand your motion, Mr. Carter, it is that either in rebuttal or in reopening you desire to reopen the presentation of your matter for the purpose of presenting additional evidence?

Mr. Carter: That is correct, your Honor.

The Court: Before proceeding with the matter of the question asked Mr. Margolis, are you a member of the Communist Party?

Mr. Carter: That is right.

The Court: If I understand your statement correctly, you may wish to withdraw that question in the event of the other evidence being adduced?

Mr. Carter: That is right.

The Court: I think you are entitled to a few moments' adjournment.

Mr. Margolis: I would like to be heard on that matter, [172] your Honor.

The Court: I think this is a matter that is strictly in the court's own discretion and I will just call a recess of a few moments on my own account.

Mr. Margolis: May I be heard after the recess with respect to this matter?

The Court: You may be heard after the recess.

(At this point a recess was taken.)

The Court: Mr. Margolis?

Mr. Margolis: At this point, your Honor, the

respondents rest. There is nothing to rebut in respondents' testimony with respect to whether or not the respondent Healey should be ordered to produce these records. That is, there is nothing with respect to the possession of these records to rebut.

This case has already been reopened once under rather peculiar circumstances. After the government rested and after the defense proceeded with its case, and after I called Mr. Carter to the witness stand, it was reopened because counsel suddenly discovered that they had forgotten to call me to the stand, so they said.

Now counsel asks to reopen the case a second time. I say they have shown no grounds, let alone sufficient grounds, for the reopening of this case. No case should be tried piecemeal. This is not a moving picture in which the hero [173] can come up riding up at the last minute to save the government from losing its case. The government ought to come in like any other litigant into a case prepared to prove its case or not be in court in the first place. And it shouldn't be allowed repeatedly to reopen its case after it has rested in an attempt to buttress a record which is inadequate and which is inadequate because they never had the evidence in the first place.

I oppose any motion to reopen the case, your Honor. I submit that the matter at this point should be submitted unless the government has rebuttal evidence to offer with relation to the mat-

ters which the defense offered in response to the evidence against the respondents, otherwise I submit the matter should stand submitted. We are prepared to argue the matter and to have it decided by the court.

Mr. Carter: If the court please, I do not understand that we are trying any case. Let us find out what the inquiry is about.

The inquiry before this court now is whether certain witnesses should be required to answer certain questions. That is the inquiry. It is not a prosecution for civil or criminal contempt.

Mr. Margolis: Your motion also was that Dorothy Healey be required to produce the books and records.

Mr. Carter: That is right [174]

Mr. Margolis: Which are being sought.

Mr. Carter: Yes.

Mr. Margolis: And that is principally upon what the evidence has been adduced.

Mr. Carter: That is right. In other words, that fits into the same category as the question whether witnesses should be required to answer questions and should a certain witness, in addition to being required to answer questions, be required to produce certain records material to the inquiry which the grand jury is conducting.

Now that is all I have to say on that subject except the motion of the government—if you want to call it reopening—the motion of the government is to put on some further evidence on this matter

which might be considered in the nature of rebuttal in view of the fact that counsel have offered into evidence excerpts from the Tenney Report that indicate she is an officer of the Communist Party. The court will recall they said maybe yes, maybe no, but don't quote me. Counsel said, we don't certify to the accuracy of these reports, we don't vouch for them, and the inquiry was made as to what they were trying to prove, and they said, we think this is hearsay of the worst kind but we still want to offer it.

Now that excerpt read by counsel for these witnesses indicated, if you give any credence to it, that Dorothy [175] Healey was the organizing secretary of the Communist Party of Los Angeles County. It is on this particular matter that the government desires to offer further evidence.

The Court: The inquiry is not a case, it is an inquiry by the court on presentment by the grand jury of these witnesses. I think the government is being treated like any other litigant, and I think in such an inquiry as this that they are entitled, if they have additional evidence, to present it.

In any event they shall be given the opportunity to do so. The objections are overruled.

You will call your witnesses.

Mr. Margolis: We want our objection to be noted to proceeding at this time.

The Court: That is what you just got through doing.

Mr. Carter: Call Mrs. Fisher.

## MRS. CARMEN FISHER

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Mrs. Carmen Fisher.

The Clerk: How do you spell it?

The Witness: F-i-s-h-e-r.

The Clerk: Your address? [176]

The Witness: 1717 West 84th Street.

The Clerk: Los Angeles?

The Witness: Yes.

The Clerk: Take the stand, please.

## Direct Examination

By Mr. Carter:

Q. Mrs. Fisher, you will have to keep your voice up so we can all hear you. A. All right.

Q. You have given your address to the Clerk?

A. Yes.

Q. Have you in the past been an official of the election boards of Los Angeles County?

A. Yes, I have.

Q. For how long a time have you acted in such official capacity? A. Well, since 1946.

Q. What particular position on the election board do you hold?

A. Well, I hold the judge now. I was a clerk.

Q. In the consolidated primary held in Los Angeles on June 1, 1948, what position did you hold? A. Clerk.



(Testimony of Mrs. Carmen Fisher.)

Q. Now, Mrs. Fisher, how many people are on these election boards that meet and conduct the local elections? [177]

A. Well, in the Presidential election there are six.

Q. Let us talk about June 1st.

A. There were six.

Q. And are you supplied with some official documents by the county registrar?

A. Yes, we are.

Q. What are you supplied with?

A. We are supplied with a ledger, with all the names of the registered voters, and also a roster that each voter must sign before he receives a ballot.

Q. Now the register that you are supplied with is a blank book, is it not? A. That is right.

Q. With a series of lines numbered in sequence from one on? A. Yes, sir.

Q. And the first voter is required to sign on line No. 1, the second voter on line No. 2, and so on? A. That is right.

Q. The ledger that you speak of contains the original of the voters' registration, is that right?

A. That is right.

Q. And that is the sheet that is made out at the time a person registers to vote?

A. That is right. [178]

Q. Now when a person presents himself to your polling place to vote, what procedure do you follow?

(Testimony of Mrs. Carmen Fisher.)

A. Well, first they give their name and we look their name up in the ledger.

Q. To see if you have a registration sheet for that voter?

A. A registration sheet for that person.

And they sign the roster and if the name is signed the same as in the ledger we give them a ballot.

Q. Then the person votes and casts his ballot?

A. The person votes and casts his ballot.

Q. When you have finished with the election do you return these records or sheets to the registrar of voters?

A. Yes, we do.

Q. What do you do with the roster of voters for people who sign their names?

A. That is returned also.

Mr. Carter: I ask that the Clerk mark for identification this document entitled "Affidavit of Registration," as government's Exhibit 1.

The Court: We just had one I thought.

Mr. Carter: Better mark it with a date.

The Court: It will be No. 1, June 10.

(The document referred to was marked Government's Exhibit No. 1, June 10, 1949 for identification.) [179]

Mr. Carter: And the roster for identification as No. 2.

The Clerk: June 10, No. 2.

The Court: The registration is No. 1 and the roster is No. 2?

(Testimony of Mrs. Carmen Fisher.)

The Clerk: That is right, your Honor.

(The document referred to was marked Government's Exhibit No. 2, June 10, 1949 for identification.)

Q. (By Mr. Carter): Mrs. Fisher, do you know Dorothy Healey personally?

A. Well, she is my neighbor.

The Court: Do you know her?

The Witness: Yes, I know her.

Q. (By Mr. Carter): Will you point her out to us in the courtroom?

A. She is in the first row the second lady, the first lady next to the man in the first row.

The Court: Well, there is only one lady in the front row.

The Witness: I couldn't see all of them.

The Court: The record will show that the witness has identified the person known as Dorothy Healey in these proceedings.

Q. (By Mr. Carter): How long have you known her?

A. Well, I guess since she moved into the neighborhood [180] I have seen her.

The Court: How long has that been? A year, two years?

The Witness: Well, I would say about three, maybe a little longer.

Q. (By Mr. Carter): I show you an affidavit of registration that has been marked government's

(Testimony of Mrs. Carmen Fisher.)

Exhibit 1 for identification and ask you if you know what that is?

A. That is the pages in the ledger.

Q. That are sent out as part of your ledger?

A. Yes.

Q. I show you a document marked government's Exhibit 2 for identification. Do you know what that is?

A. That is the roster that the voters sign before they receive a ballot.

Q. In your precinct No. 212?

A. In our precinct.

The Court: Whose name is signed to the registration, Exhibit No. 1? What name appears there?

The Witness: What name?

The Court: Yes.

The Witness: Mrs. Dorothy Ray Healey.

The Court: Very well.

Q. (By Mr. Carter): I call your attention to the last page of the roster, [181] Exhibit 2 for identification, and ask you if your name is signed thereto. A. Yes.

Q. Carman Fisher, Clerk? A. Yes.

Q. Did you have charge of this roster on the date of June 1, 1948?

A. I didn't have charge of it; the judge has charge of it. I was the clerk handling the ballots at that time.

Q. Sitting there alongside of the judge?

A. Yes.

(Testimony of Mrs. Carmen Fisher.)

Q. On June 1, 1948, did Dorothy Healey present herself to your precinct to vote?

A. Yes, she did.

Q. What happened at that time?

A. Well, she came in the same as any other voter and the judge looked her name up and she signed her name, and I handed her the ballot; she voted and walked out.

Q. Did you see her sign her name?

A. I was across the table when she sat down to sign her name.

The Court: Did you see her sign?

The Witness: Yes, I did.

Q. (By Mr. Carter): Calling your attention to item No. 108, where the [182] name Mrs. Dorothy Ray Healey, 1733½ West 84th Street, appears. Is that the signature you saw her sign?

A. Yes, it is.

Mr. Carter: At this time we offer in evidence government's Exhibit 1 for identification and government's Exhibit 2 for identification, subject to the right to make photostats thereof so that the originals may be returned to the registrar of voters.

Mr. Margolis: Objected to on the ground it is incompetent, irrelevant and immaterial, no relation to any issue in this case.

Mr. Carter: I propose to make photostats of the first and last page of the roster and only the page in which item 108 appears; also a photostat of the registration slip.

(Testimony of Mrs. Carmen Fisher.)

Mr. Margolis: It has no materiality in this case at all, your Honor.

Mr. Carter: It is foundational, your Honor. We have something further.

The Court: I take it it is preliminary. It will be marked for identification and when its materiality becomes apparent I will rule on the question of its admissibility.

Mr. Carter: You may cross-examine.

Mr. Margolis: No questions.

The Court: You may be excused.

(Witness excused.) [183]

The Court: Next witness.

Mr. Carter: May I ask the witness to remain for a short time?

The Court: Very well. You will remain in attendance until you are excused by the court.

Mr. Goldschein: Mr. Jenkins, please.

### LAWRENCE H. JENKINS

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Lawrence H. Jenkins.

The Clerk: L-a-w-r-e-n-c-e?

The Witness: Yes.

The Clerk: Your address?

The Witness: 775 Oak Street, Laguna Beach.

The Clerk: Take the stand, will you, please?



(Testimony of Lawrence H. Jenkins.)

Direct Examination

By Mr. Goldschein:

Q. Your name is L. A. Jenkins, is it not?

A. L. H.

Q. L. H. Jenkins? A. That is correct.

Q. What is your business, Mr. Jenkins?

A. Assistant cashier of the Security-First National Bank. [184]

Q. Tell us whether or not you have charge of the records of that bank.

A. I have charge of the records in the banking department at the head office of the bank.

Q. Do you have an account at the bank of the Los Angeles County, Communist Party, Tax Account?

A. That I cannot disclose at the present time. We did have such an account.

Q. Was there such an account in your bank?

A. There was such an account; yes.

Q. Was there a signature card on that account filed with your bank on August 14, 1947?

A. There was.

Q. Now will you tell us what the signature card requirement is? What is a signature card at your bank?

The Court: Do you have it?

Mr. Goldschein: Yes, he has it.

The Court: Let us mark it for identification.

Mr. Goldschein: Government's Exhibit No. 3.

The Court: Exhibit No. 3, June 10th.

(The document referred to was marked Gov-

(Testimony of Lawrence H. Jenkins.)

ernment's Exhibit No. 3, June 10, 1949 for identification.)

Mr. Goldschein: Do you care to see it?

Mr. Margolis: Yes. [185]

(Exhibiting to counsel.)

Q. (By Mr. Goldschein): Mr. Jenkins, did the Los Angeles County Committee Communist Party have an account at your bank?

A. They have an account there at the present time.

Q. Do you have a signature card for them dated January 30, 1948? A. Yes, sir.

Q. Do you have one for the same account dated March 7, 1947? A. That is correct.

Q. Do you have another of that account dated April 12, 1946? A. That is right.

Q. Do you have another on that account dated October 26, 1945?

A. Yes. That was the date on which the account was originally opened on October 26, '45.

Mr. Goldschein: I would like to mark them as government's exhibits.

The Court: That will be Nos. 4, 5, 6 and 7, June 10th. In that order, '48, '47, '46 and '45.

(The signature cards referred to were marked Government's Exhibits Nos. 4, 5, 6 and 7, June 10, 1949 for identification.) [186]

Q. (By Mr. Goldschein): Mr. Jenkins, can you tell us what the signature cards in your bank are used for?

(Testimony of Lawrence H. Jenkins.)

A. They are used as the authority for the payment of checks drawn against the account.

Q. And the signature card is what? Who is it made by?

A. It is made by the depositor. In the case of an organization, an association, or a corporation it would have a resolution on the back there signed by the authorized officials of the association or corporation, whichever it might be, authorizing the signatures that appear on the face of the card.

Q. And it is used for what, comparison for the payment of checks?

A. Comparison for the payment of checks.

Q. Comparison of signatures on the checks?

A. The signatures on the checks; that is right.

Q. Now are these records made in the usual course of business and required to be kept in the usual course of business?

A. That is right; yes.

Mr. Goldschein: We offer in evidence, may it please the court, government's Exhibits 3, 4, 5, 6 and 7 for identification.

Mr. Margolis: I would like to ask some questions on voir [187] dire, your Honor.

The Court: Let me see them.

(The exhibits referred to were passed to the court.)

The Court: You may do so. Proceed.

Voir Dire Examination

By Mr. Margolis:

Q. With respect to the accounts for which these

(Testimony of Lawrence H. Jenkins.)

various cards that have been marked in identification apply, do you know when each of those accounts was last used?

A. I couldn't recall offhand. I can tell on the tax account. It shows the date it was closed.

That account was closed on January 18, 1949.

Q. Do you know whether or not Mrs. Healey had anything to do with the closing of that account?

A. I couldn't say on that; no.

Q. Do you know when Mrs.—

Mr. Carter: What number was that?

The Court: No. 3.

Q. (By Mr. Margolis): Do you know when Mrs. Healey had anything to do with any one of those accounts, or the person whose name appears on there as Mrs. Healey, that person, had anything to do with any one of those accounts beyond the date which each of those cards bears?

A. No, I do not. [188]

Mr. Margolis: I object to the cards, if your Honor please, on the grounds that they are incompetent, irrelevant and immaterial, remote, do not establish anything with respect to the present condition.

Mr. Carter: We have one other witness who will compare the signatures on the cards.

The Court: They will be marked for identification.

Have you finished with this witness?

Mr. Goldschein: Yes, sir.

The Court: Did you bring the blanket ledger along to show the last account?

(Testimony of Lawrence H. Jenkins.)

The Witness: I did not.

The Court: Does your bank make microphotographs of the checks as they go through the accounts?

The Witness: We do not.

The Court: You do not?

The Witness: No.

The Court: Very well. You may be excused.

(Witness excused.)

Mr. Margolis: We ask that Mr. Jenkins be asked to remain a few minutes.

The Court: Very well. You will remain here until excused by the court.

Mr. Carter: May photostatic copies of those cards be substituted so that the original records may be returned to [189] bank?

The Court: Sooner or later. You can leave them here, but not now.

Next witness.

Mr. Goldschein: Mr. Donn E. Mire.

### DONN E. MIRE

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Your name, sir?

The Witness: Donn, D-o-n-n, E. Mire, M-i-r-e.

The Clerk: Your address, Mr. Mire?

A. Home address?

(Testimony of Donn E. Mire.)

The Clerk: Yes.

The Witness: 811 West Century Boulevard.

The Clerk: Los Angeles?

The Witness: Los Angeles 44.

The Clerk: Take the stand.

Direct Examination

By Mr. Goldschein:

Q. What is your name, please, sir?

A. Donn E. Mire.

Q. Where do you live?

A. I live at 811 West Century Boulevard, Los Angeles, California. [190]

Q. What is your business?

A. I am a police officer.

Q. Any particular specialty? A. I have.

Q. What is it, sir.

A. I am attached to the scientific investigation bureau as a handwriting expert.

Q. How long have you been in that business?

A. The past ten years.

Q. Did you have any preliminary education in that business before you started it? A. I did.

Q. Will you tell what you had in the way of education along those lines?

A. At first I took a course from Mr. John L. Harris, who was a teacher at the University of Southern California Extension Course, which lasted approximately 12 weeks.

I also studied under my superior officer at that time, who was Lou L. Davis.



(Testimony of Donn E. Mire.)

I also have studied several books, the main one which is Albert S. Osborne on "Questioned Documents."

I have worked with other outside handwriting men, such as Mr. Harris, and Mr. J. Clark Sellers, and have made many examinations and comparisons of questioned documents, and have testified in different courts in this county and other [191] counties and other states, I would say approximately 1500 times, as to my findings.

Q. Now, Mr. Mire, will you look at government's Exhibit No. 1 and tell us whether or not you have seen that document before?

A. Yes, sir, I have.

Q. Did you examine the signature there of Mrs. Dorothy Healey?      A. I did.

Q. Did you examine government's Exhibit No. 2?      A. I did.

Q. Did you examine the signature of Mrs. Dorothy Healey opposite No. 108 on that exhibit?

A. Yes, sir, I did.

Q. Did you examine government's Exhibits Nos. 3, 4, 5, 6 and 7?      A. Yes, sir.

Q. Did you examine the signature of Mrs. Dorothy Healey on Exhibits 3, 4, 5, 6 and 7?

A. I did.

Q. Now can you tell us from your experience whether or not the signatures on No. 1 and 2 were made by the same person as government's Exhibits 3, 4, 5, 6 and 7?

(Testimony of Donn E. Mire.)

The Court: You mean the signature of Dorothy Ray Healey?

Mr. Goldschein: The signature of Dorothy Ray Healey. [192]

The Witness: Yes, sir. From my examination it is my opinion that the name of Mrs. Dorothy Ray Healey on government's Exhibits 1 and 2 was written by the same person who wrote the signature Dorothy Ray Healey on government's Exhibits 3, 4, 5, 6 and 7.

Mr. Goldschein: We offer in evidence, may it please the court, the exhibits previously marked for identification.

Mr. Carter: No. 1 to 7 inclusive.

Mr. Goldschein: No. 1 to 7 inclusive. We offer them all in evidence.

The Court: Admitted.

Mr. Margolis: We weren't given an opportunity to state our objections.

The Court: Very well.

Mr. Margolis: I assume your Honor has considered our prior objections as having been repeated when this offer is repeated?

The Court: Yes.

Mr. Margolis: Very well.

(The documents referred to were marked Government's Exhibits Nos. 1 to 7 inclusive, June 10, 1949 and received in evidence.)

(Testimony of Donn E. Mire.)

GOVERNMENT'S EXHIBIT No. 1

AFFIDAVIT OF REGISTRATION

(Original)

I last registered at and removed from No. 1933 West 6th Street, L.A., 237 Precinct. I hereby authorize the cancellation of said registration.

Los Angeles City Precinct No. 212.

State of California,  
County of Los Angeles—ss.

The undersigned affiant, being duly sworn, says: I will be at least twenty-one years of age at the time of the next succeeding election, a citizen of the United States ninety days prior thereto, and a resident of the State one year, of the County ninety days, and of the Precinct forty days next preceding such election, and will be an elector of this County at the next succeeding election.

1. I have not registered from any other precinct in the State since January 1, 1936.

2. My full name is Mrs. Dorothy Ray Healey.

3. My residence is 1733 West 84th Street, North Side, between Western and Harvard Streets. Post office address at 1733 West 84th St.

4. My occupation is housewife.

5. My height is 5 feet, .. inches.

6. I was born in Colorado.

7. I acquired citizenship by .....

(Testimony of Donn E. Mire.)

9. I intend to affiliate at the ensuing primary election with the declines to state Party.

/s/ MRS. DOROTHY RAY HEALEY,  
1733 W. 84th St.

Subscribed and sworn to before me this 21st day of August, 1946.

M. J. DONOGHUE,  
Registrar of Voters,

By /s/ THOMAS J. CARROLL,  
Deputy Registrar of Voters.

E 384400

Admitted June 10, 1949.

## GOVERNMENT'S EXHIBIT No. 2

### ROSTER OF VOTERS

of the

Consolidated Primary Election

Held in Los Angeles, Precinct No. 212, in Los Angeles County, California, June 1, 1948.

Signature in Roster must be compared with Signature in Precinct Register. Insert this Roster in Envelope No. 4.

# Roster of Voters

# Roster of Voters

SIGNATURE OF VOTER

RESIDENCE OF VOTER

NO.

SIGNATURE OF VOTER

RESIDENCE OF VOTER

121

1658-2-57E st

122

169-4-51E st

123

169-4-51E st

124

169-4-51E st

125

169-4-51E st

126

169-4-51E st

127

169-4-51E st

128

169-4-51E st

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169-4-51E st

146

169-4-51E st

147

169-4-51E st

148

169-4-51E st

149

169-4-51E st

150

169-4-51E st



[Stamp]: Requires any two signatures.

Los Angeles County Committee

Communist Party Tax Account

Sign Here

/s/ N. SPARKS

/s/ DOROTHY RAY HEALEY

/s/ BARBARA MORLEY

Address 124 W. 6th St. Telephone TR. 7913.

Former bank account or reference Regular Acct.

First deposit \$32.60.

Acct. opened by [Illegible].

Date Aug. 14 '47.

[Reverse side of card.]

Security-First National Bank of Los Angeles:

Date 8-7-47

At a meeting of Los Angeles County Committee, of the Communist Party, Tax Account held on July 19, 1947, N. Sparks and/or Dorothy Ray Healey, Barbara Morley whose signatures are given on the reverse side of this card, were authorized, any two acting together, to execute checks and other items for and on behalf of this Committee and each of them was authorized to indorse checks and other items payable to this Committee for deposit.

Further that this Committee agrees to the conditions printed in the Bank Book issued in connection with its account with the Security-First National Bank of Los Angeles, as to all deposits and withdrawals made on said account and to other transac-



(Testimony of Donn E. Mire.)

tions with said Bank.

/s/ N. SPARKS,

President.

/s/ DOROTHY RAY HEALEY,

Secretary.

[Stamp]: Account Closed Jan 18 1949

Admitted June 10, 1949.

GOVERNMENT'S EXHIBIT No. 4

COMMERCIAL

[Stamp]: Sixth & Spring Office

[Stamp]: Requires two signatures.

Los Angeles County Committee Communist Party

Sign Here

/s/ N. SPARKS

/s/ DOROTHY RAY HEALEY

/s/ BESS LUEB

Address 124 West 6th St. 14 Telephone TR 7913

Former bank account or reference Supersedes

Previous Card Dated 3-7-'47.

[In Pen]: (10-26-45)

Date Jan 30 '48

[Reverse side of card.]

Security-First National Bank of Los Angeles:

Date Jan. 30, 1948

At a meeting of Los Angeles County Committee of the Communist Party held on January 21, 1948 and/or N. S. Sparks, Dorothy Ray Healey, Bess Lueb whose signatures are given on the reverse side

(Testimony of Donn E. Mire.)

of this card, were authorized, Any two acting together, to execute checks and other items for and on behalf of this organization and each of them was authorized to indorse checks and other items payable to this organization for deposit.

Further that this organization agrees to the conditions printed in the Bank Book issued in connection with its account with the Security-First National Bank of Los Angeles, as to all deposits and withdrawals made on said account and to other transactions with said Bank.

/s/ N. SPARKS,

Chairman,

/s/ DOROTHY RAY HEALEY

Secretary.

Above Authorization Verified

/s/ BARBARA MORLEY

Former Secretary

Admitted June 10, 1949.

GOVERNMENT'S EXHIBIT No. 5

COMMERCIAL

[Stamp]: Sixth & Spring Office

[Stamp]: Requires any two signatures

[Stamp]: Revoked Date Jan 30 '49 See New  
Card in Live File

(Testimony of Donn E. Mire.)

Los Angeles County Committee Communist Party  
Sign Here

/s/ N. SPARKS

/s/ DOROTHY RAY HEALEY

/s/ BARBARA MORLEY

Address 124 W. 6 Street Telephone TR 7913

Former bank account or reference Supersedes  
Previous Card Dated 4-12-46

(10-26-45)

Date Mar 7-'47

[Reverse side of card.]

Security-First National Bank of Los Angeles:

Date.....

At a meeting of Los Angeles County Committee of the Communist Party held on Feb. 20, 1947, Barbara Morley and/or N. Sparks, Dorothy Ray Healey whose signatures are given on the reverse side of this card, were authorized, any two acting together to execute checks and other items for and on behalf of this political party and each of them was authorized to indorse checks and other items payable to this political party for deposit.

Further that this political party agrees to the conditions printed in the Bank Book issued in connection with its account with the Security-First National Bank of Los Angeles, as to all deposits and withdrawals made on said account and to other transactions with said Bank.

/s/ N. SPARKS

President.

/s/ DOROTHY RAY HEALEY

Secretary.

Admitted June 10, 1949.

(Testimony of Donn E. Mire.)

GOVERNMENT'S EXHIBIT NO. 6

COMMERCIAL

[Stamp]: Sixth & Spring Office

[Stamp]: Requires any two signatures

[Stamp]: Revoked Date Mar 7 '47 See New  
Card in Live File

Los Angeles County Committee Communist Party  
Sign Here

/s/ DOROTHY RAY HEALEY

/s/ ELIZABETH GLENN

/s/ N. SPARKS

Address 124 W. 6th St. Telephone TR. 7913

Former Bank Account or Reference Supersedes  
Previous Card Dated 10-26-45

(10-26-45)

Date Apr 12 '46

[Reverse side of card.]

Security-First National Bank of Los Angeles:

Date April 8, 1946

At a meeting of Los Angeles County Committee of the Communist Party held on April 4, 1946, Dorothy Ray Healey and/or Elizabeth Glenn, N. Sparks whose signatures are given on the reverse side of this card, were authorized, any two acting together to execute checks and other items for and on behalf of this Committee and each of them was authorized to indorse checks and other items payable to this Committee for deposit.

Further that this Committee agrees to the conditions printed in the Bank Book issued in connection with its account with the Security-First National

(Testimony of Donn E. Mire.)

Bank of Los Angeles, as to all deposits and withdrawals made on said account and to other transactions with said Bank.

/s/ N. SPARKS,  
President.

/s/ DOROTHY RAY HEALEY,  
Secretary.

Admitted June 10, 1949.

GOVERNMENT'S EXHIBIT NO. 7

COMMERCIAL

[Stamp]: Requires any two signatures

[Stamp]: Revoked Date Apr 12 '46 See New  
Card in Live File

Los Angeles County Committee Communist Party  
Sign Here

/s/ DOROTHY RAY HEALEY  
/s/ N. SPARKS  
/s/ BEATRICE BARON

Address 124 W. 6th St. Telephone TR. 7913  
Coml. L.A. County Com. Communist Political Asso.  
Closed To This

Former Bank Account or Reference: Security-First  
National Bank of Los Angeles

First Deposit \$1316.76 Acct. Opened By RH  
Date Oct 26, '45

[Reverse side of card]

Security-First National Bank of Los Angeles:

Date 10-26-45

At a meeting of Los Angeles County Board of the

(Testimony of Donn E. Mire.)

Los Angeles Communist Party held on October 24, 1945, Dorothy Healey and/or Nemmy Sparks and Beatrice Baron whose signatures are given on the reverse side of this card were authorized, any two acting together to execute checks and other items for and on behalf of this Communist Party and each of them was authorized to indorse checks and other items payable to this organization for deposit.

Further that this.....agrees to the conditions printed in the Bank Book issued in connection with its account with the Security-First National Bank of Los Angeles, as to all deposits and withdrawals made on said account and to other transactions with said Bank.

/s/ N. SPARKS,

Chairman.

/s/ DOROTHY RAY HEALEY,

Secretary.

Oct 26 '45

To Bank of America, 7th and Spring

Gentlemen:

The person whose specimen signature is shown below has given you as reference. Please verify the signature and supply the information requested on the reverse hereon, which will be treated confidentially and is without liability on your part. Please reply on this form, using stamped envelope inclosed



(Testimony of Donn E. Mire.)

Specimen Signature

/s/ BEATRICE BARON

L. A. Committee Communist Party

Refers To:

[x] Open Commercial Account

[x] Open Savings Account

[Reverse side of card.]

### REPLY

Signature compares favorably with our specimen.

Kind of Account: Coml

Date Opened: 4-2-45

Check [x] Average Balance Below:

Under \$100 [ ]

\$100 to \$500 [ ]

\$500 to \$1000 [ ]

\$1000 to \$5000 [x]

Over \$5000 [ ]

Addressee Please Sign Here

/s/ [ILLEGIBLE]

Authorized Signature.

Admitted June 10, 1949.

---

Mr. Goldscheine: That is all.

The Court: Cross-examine.

Mr. Margolis: No questions. [193]

The Court: You may be excused.

(Witness excused.)

The Court: Next witness.

Mr. Carter: That is all, your Honor.

The Court: Very well.

Mr. Margolis: At this time, your Honor, I have a motion to make.

The Court: They said "that is all," but there is another thing unfinished in connection with the presentation of this matter, and that is the matter of the question which was asked Mr. Margolis yesterday, which is a part of this inquiry.

Mr. Margolis: However, your Honor, may I make a motion with respect to this last testimony?

The Court: Very well. I thought you had a general motion to make.

Mr. Margolis: No. I move to strike all of the testimony of the last three witnesses on the grounds that it was improper to reopen these proceedings and to try this case in the piecemeal manner in which it has been tried, that a proceeding of this character, like any other proceeding, is one in which the orderly processes of law must be followed and not one in which the government may come into a court without having evidence, get continuances from time to time for the purpose of preparing this bit of evidence and that bit of [194] evidence, interrupting the case in the middle to get an idea to call some additional witness. I say that this kind of a procedure, your Honor, constitutes a denial of due process of law.

On these grounds I move to strike all the evidence of the last three witnesses.

The Court: The motion is denied. [195]

\* \* \*

And another respect in which this is a sham pro-

(Testimony of Donn E. Mire.)

ceeding, your Honor, these counsel representing the United States government have said that there is no claim of privilege against self-incrimination in connection with answers which might connect a witness with the Communist Party. But their counterpart, another special assistant to the Attorney General, a man named Donohue, who is conducting another investigation of this kind in San Francisco, before a grand jury asks witnesses before the grand jury questions connecting them with the Communist [209] Party and they claim their privilege, and that counsel for the government concedes that the claim of privilege is good and dismisses the witness, and everybody who has been subpoenaed along with him, because he recognizes this to be a valid claim and a privilege.

I offer this affidavit in order to show your Honor what happened before the grand jury there.

The Court: Are you offering this in evidence?

Mr. McTernan: Yes, I am.

The Court: Do you wish to reopen your case for the purpose of offering this in evidence?

Mr. McTernan: I am offering this affidavit in support of the motion to dismiss and on the basis of the affidavit I ask for a subpoena to be directed to F. Joseph Donohue—I believe his name is—Special Assistant to the Attorney General of the United States, that he be summoned here to testify concerning the facts set forth in this affidavit to show your Honor what a two-faced policy the government follows.

We told you about the two-faced policy between Los Angeles and New York; now it is happening in the same state in adjacent districts. Here they say there is no claim of privilege based upon membership in the Communist Party under the Smith Act, and in San Francisco before another grand jury they say it is, and they dismiss the witness and they don't even start these proceedings. [210]

\* \* \*

Mr. Goldschein: May it please the court, so much has been said here about the intent and purpose and vilification of the Department, the Attorney General in this matter, that I think it necessary also for the purposes of the record to explain our position so that there won't be any question on it in the record.

I would like to begin with my entry into this type of case. I want the court to know, and the record to show, that about September of last year I was called into the office, shown some files, and asked whether I would like to handle that case.

The Court: Counsel, I do not think the situation calls for any explanation of your personal relationship in connection with this matter. The matter is entitled, Investigation by the Grand Jury Concerning Loyalty of Government Employees, Miscellaneous Investigation No. 279, 18 U.S. Code 1001, 18 U.S. Code 80 (Old Section)." [212]

This has been the argument advanced by Mr. McCernan, and it has been repeatedly advanced in this court and has been overruled.

Mr. Goldschein: If the court will just give me

a few minutes I would like the record to show that these things that Mr. Margolis and Mr. McTernan are talking about—I won't take any more time than Mr. McTernan has taken; as a matter of fact, I will take less time—and I will cut out the preliminaries, how I got into this type of case, but merely show the importance of it, if the court will permit me, by illustrating what took place in another district on this type of matter only to show why the government is going into this type of investigation and why the grand jury is so insistent upon having the books and records. May I?

The Court: Go ahead.

Mr. Goldschein: In September of last year I went to another judicial district on a simple matter of a Federal employee making a false statement to an agency of the Federal government, and on its face it appeared that there was nothing very much aggravated about it. In order to determine whether or not the man should or should not be prosecuted, we determined to look in and see his purpose in making the false statement.

The employee was an aircraft mechanic, working at the Lowry Field air base, an Army air base, in Colorado, repairing [213] Army airplanes, and had gone underground and hid his Communist activity and made a false statement with reference to it.

On inquiry it developed that this same Federal employee, this aircraft mechanic, was driving a truck on this air base, a truck on which he had no business driving, driving it in an area of the field where he had no business being, and backed that



truck into a communications panel of the Lowry Air Field and knocked the whole communication system out of whack, and it was out for two or three hours.

It appeared from that that there was something more sinister behind the denial of this employee of his affiliations and activities.

There were some other cases in that same area of a similar nature, that is, government employees who we had some information to indicate that they were connected with organizations listed by the Attorney General as being subversive, who had made statements to a Federal government, denying any participation or connection with such activities.

It then became necessary there, as it did here, to determine from the books and records of the Communist Party whether or not these Federal employees were actually members of that party.

Now according to all the books and records that I have read, law books, the procedure is a very simple one. The witness is called before the grand jury, he is asked the pertinent [214] questions, if he claims the privilege he is brought before the court and then the court determines whether or not the question is privileged and orders the witness to answer or not to answer as the case may be.

\* \* \*

The Court: Very well.

There has been no request that any of these respondents make a statement to the court in chambers on their part. It is [219] up to them if they want to do that, it is not up to me.



Mr. Goldschein: I assume the court will hear them if they make the request.

The Court: I will give it consideration. [220]

\* \* \*

The Court: By the way, the record will show that Mrs. Healey, Mr. Newman, Mr. Greenfield and Mr. Averbuck have been present since the proceedings began this morning, in person and by counsel.

The matter presented by counsel in objection generally has not differed from the arguments heretofore advanced. I read the Rosen case and I can see a considerable distinction there between the situation as it related to Rosen and as it is presently postured concerning these witnesses and the questions upon which I am about to rule.

I think all of the questions asked, as I will indicate them, are material and I do not think that the answering of any of them will incriminate or tend to incriminate any of the defendants.

Taking up first Horace Morton Newman, Jr. He appeared before the grand jury the first time I think on April 21 and then again on May 26. Most of the questions concerning Dorothy Healey asked of Mr. Newman at that time would now seem to me [294] to be immaterial, "Do you know where she lives," for instance, and "Do you know her husband's name" and "Do you know where she can be found or located" and "Have you seen Dorothy Healey recently."

However, I do think it is material for the witness to answer the questions "Do you know Dorothy Healey," "Do you know her office address" and

“Do you know her business or occupation,” because it must be remembered that one of the things which the grand jury is seeking here are the records which will enable the grand jury to determine whether or not the persons under investigation were or were not members of the Communist Party.

For that reason I will overrule the objections which have been made and now order the witness Horace Morton Newman, Jr., to be and appear before the grand jury—what date will they be in session again?

Mr. Carter: I suggest Tuesday this following week.

The Court: June 14?

Mr. Carter: June 14.

The Court: At 9:30?

Mr. Carter: 9:30.

The Court: That Horace Morton Newman, Jr., be and appear before the grand jury of this district, before whom he heretofore appeared, at their office in this building on Tuesday, January 14th, at 9:30 o'clock in the morning, and [295] then and there give answer to the following questions. And that order will be a separate order as to each question, that is to say, he is ordered to answer the question: “Q. Do you know Dorothy Healey?”

He is ordered to answer the question: “Q. Do you know her office address?”

He is ordered to answer the question: “Q. Do you know her business or occupation?”

He is ordered to answer the question: “Q. Now, what is your business address?”

He is ordered to answer the question: "Q. Who are you educational director for?"

Mr. Margolis: Is your Honor reading from the record? I was wondering if I could find it.

The Court: Yes.

Mr. Margolis: I want to follow it.

The Court: Page 71, lines 18 and 19. I have read that one.

On line 23, I read that one.

Page 72, line 4 now.

Mr. Margolis: Thank you.

The Court: He is ordered to answer the question: "Q. Do you know who the financial director is of the eastern division of the Los Angeles County Communist Party?"

The same order as to this question: "Q. Do you know who [296] the membership or social director is of the eastern division of the Los Angeles County Communist Party?"

The same order as to this question: "Q. Now who is the chairman of the Los Angeles County Communist Party?"

The same order as to the question: "Q. Who is the organization secretary of the Los Angeles County Communist Party?"

Page 73, line 8, the same order as to the question: "Q. Now do you know whether or not the Los Angeles County Communist Party has a labor director?"

The same order as to the following question: "Q. Do you know whether or not they have a membership or social director?"

The same order as to this question: "Q. Do you know whether or not the membership or social director has a list of the membership of the Los Angeles County Communist Party?"

The same order: "Q. Do you know whether or not the Los Angeles County Communist Party has a financial director?"

The same order: "Q. Do you know whether or not the financial director keeps an account of the dues collected from the members of the Los Angeles County Communist Party?"

Page 76, line 15, the same order: "Q. Do you report to anybody whom you see?"

Page 78, line 1, the same order: "Q. Do you know Dorothy Healey as the organizational secretary of the Communist Party of Los Angeles County?" [297]

The same order: "Q. Do you know whether Dorothy Healey has in her possession or under her control any books and records of the Communist Party of Los Angeles County?"

Mr. Newman, do you understand the order?

The Witness Newman: Yes.

The Court: Very well.

As to the witness Alvin Abram Averbuck—which one is that?

The Witness Averbuck: Here.

The Court: You are Mr. Averbuck?

The Witness Averbuck: Yes.

The Court: Mr. Averbuck, you are ordered and directed to be and appear before the grand jury of this district, before whom you have heretofore ap-

peared, at their regular meeting place in this building on Tuesday, June 14, at 9:30 o'clock in the morning of that day, and then and there give answer to the following questions:

“Q. What name is on the door?”

Mr. Margolis: What page is that?

The Court: Page 45, line 9.

Page 46, the same order: “Q. Do you know Mrs. Dorothy Healey?”

Page 47, line 17, the same order: “Q. Mr. Averbuck, do you *know has* the books and records of the Los Angeles County Communist Party?” [298]

The same order: “Q. Now, do you know how many divisions of the Los Angeles County Communist Party there are?”

The same order: “Q. Do you know the names of any of the chairmen of any of the divisions of the Los Angeles County Communist Party?”

The same order: “Q. Do you know the names of the membership or social organizers of any of the divisions of the Los Angeles County Communist Party?”

The same order: “Q. Do you know the names of the financial organizers or financial directors of any of the divisions of the Los Angeles County Communist Party?”

The same order: “Q. Do you know the names of the officials of any of the divisions of the Los Angeles County Communist Party that have the books and records of that division of the Communist Party?”

The same order: “Q. Did you ever see Mrs.



Dorothy Healey with any of the books or records of the Los Angeles County Communist Party?"

Page 49, line 8, the same order: "Q. What did you say your occupation was?"

The answer was: "A. Organizer."

The question unanswered and to which the order will apply is: "Q. For whom?"

Mr. Averbuck, do you understand the order?

The Witness Averbuck: I do. [299]

The Court: Very well.

Mr. Elvador Claude Greenfield, you are ordered and directed to be and appear before the grand jury of this district, before whom you heretofore appeared, on Tuesday, June 14, at the hour of 9:30 o'clock in the morning and then and there give answers to the questions which I will now designate.

This is page 39, line 8: "Q. Now, do you know who has the books and records of the Los Angeles County Communist Party?"

Page 40, line 1, the same order: "Q. Was that the first time you ever saw her?" That refers to Mrs. Dorothy Healey.

The same order: "Q. Does she have the books and records of the Los Angeles County Communist Party, do you know?"

The same order: "Q. Do you know who has the books and records of the Los Angeles County Communist Party?"

The same order: "Q. Mr. Greenfield, do you know whether or not the Los Angeles County Communist Party is divided up into divisions?"



The same order: "Q. Can you tell us how many divisions there are?"

The same order: "Q. Will you tell us whether or not each division of the Communist Party of the Los Angeles County keeps books of the membership of that division?"

Page 41, line 7, the same order: "Q. Will you tell us the names of the chairmen or organizers of these divisions?" [300]

The same order: "Q. Will you tell us whether or not these divisions each have a membership or social director?"

The same order: "Q. Mr. Greenfield, we want to know the names of these people that hold these offices."

The same order: "Q. Well, does each division have a financial director? If so, will you give us their names?"

Page 43, line 11: "Q. Mr. Greenfield, I believe I asked you this morning whether or not you knew who had the books and records of the Los Angeles County Communist Party. Did I ask you that question? "A. I think you did.

"Q. What was your answer?"

Mr. Margolis: Is that two orders to answer the same question?

The Court: I do not think it is.

Mr. Margolis: He asked, did I ask you that question, and the answer was, I think you did, and then the question was, what was the answer, and he told what his answer was.

The Court: Just a moment. I will check that again.

Yes, that is on page 40 and he has been previously directed to answer that question.

Mr. Averbuck, do you understand the order of the court?

The Witness Averbuck: Is that for me again?

The Court: Mr. Greenfield—I beg your pardon—do you understand the order of the court? [301]

The Witness Greenfield: Yes.

Mr. Margolis: I don't think I understand it with respect to the last, your Honor. It is not quite clear.

The Court: He is only directed to answer that question once.

Do you understand it, Mr. Greenfield?

The Witness Greenfield: Yes, sir.

The Court: Very well.

Dorothy Healey, you are now ordered and directed to be and appear before the grand jury at its regular meeting place in this building, the same grand jury before whom you heretofore appeared, on Tuesday, June 14, at the hour of 9:40 o'clock in the morning of that day, and then and there give answer to the questions which I will now indicate.

Page 6, line 2: "Q. Will you tell us who you are organizer for?"

Line 20: "Q. Now, Mrs. Healey, do you know who has the books and records of the Los Angeles County Communist Party?"

Bottom of page 6 and top of page 7: "Q. Can you tell us, Mrs. Healey, whether or not the Los

Angeles County Communist Party has a chairman?"

The same order: "Q. Can you tell us whether or not it has an organizational secretary?"

And the same order as to this question: "Q. Can you tell us whether or not it has an education director?" [302]

The same order: "Q. Can you tell us whether or not it has a labor director?"

The same order: "Q. Can you tell us whether or not the membership or social director would have a list of the members of the Los Angeles County Communist Party?"

The same order as to the following question: "Q. Can you tell us whether or not they have a financial director?"

The same order as to the following question: "Q. Can you tell us whether or not the financial director would have a record of the dues paid by the members of the Los Angeles County Communist Party?"

The next question is not clear to me, at the top of page 8.

The same order will apply to the following question, beginning on line 8 of page 8: "Q. Can you tell us who has the record showing the dues paid by the membership of the Los Angeles County Communist Party?"

The same order: "Q. Now, Mrs. Healey, can you tell us the name of anyone who can give us that information I just asked you?"

The same order: "Q. But that information is available, is it not?"

The same order: "Q. Can you tell us how many

divisions there are in the Los Angeles or the Los Angeles County Communist Party?" [303]

The same order: "Q. Can you tell us how many sections there are in the divisions?"

The same order: "Q. Can you tell us how many clubs there are?"

The same order: "Q. Can you tell us how many squads there are?"

The same order: "Q. Mrs. Healey, can you tell us who is chairman of the eastern division of the Los Angeles County Communist Party?"

The same order: "Q. Can you tell us who is the chairman of the midtown division of the Los Angeles County Communist Party?"

The same order: "Q. Can you tell us who is the head of the southern division of the Los Angeles County Communist Party?"

The same order: "Q. Can you tell us who is the head of the western division of the Los Angeles County Communist Party?"

The same order: "Q. Can you tell us who is the head of the youth division of the Los Angeles County Communist Party?"

The same order: "Q. Can you tell us who is the head of the student section of that youth division?"

The same order: "Q. Mrs. Healey, each division has a chairman, does it not?"

The same order: "Q. Or sometimes called an organizer?" [304]

The same order: "Q. Does each division have an organizational secretary?"

The same order: "Q. Does each have a membership or social secretary?"

The same order: "Q. Does each have a membership or social director?"

The same order: "Q. Does the membership or social director of each division have a list of the membership of that division?"

The same order: "Q. Does each division have a financial director?"

The same order: "Q. Do not the membership director and the financial director have the books and records of the Los Angeles County Communist Party?"

The same order: "Q. Will you tell us who has the books and records of the Los Angeles County Communist Party?"

Page 11, line 22: "Q. Now, that statement with reference to Mrs. Dorothy Ray Healey, the organizational secretary of the Los Angeles County Communist Party, is that designation correct with reference to you?"

I think you might pay attention while I am directing an order to you, Mrs. Healey.

Page 14, line 3, the same order as to the question: "Q. What is your business address?"

Page 16, line 24. The previous question is, "You are [305] in charge of those records, are you not?" The answer is, "No."

The question which you are now ordered to answer is: "Q. Who is?" Meaning who is in charge of those records.

Page 17, you are ordered to answer the question:

“Q. Are there records in the place of business where you work?”

Mr. Margolis: May I suggest to the court that that question is a little ambiguous. Does it mean specific records or are they just referring to records kept of some kind, because I think our advice to our client has been based in part on our understanding of the question and it isn't clear to me.

The Court: They are talking about, “Did you ever have the records in your possession?”

Mr. Carter: What page are you now on, your Honor?

The Court: Page 17. The previous question is the one that I referred to back on page 16, “Well, then, we will modify the direction that you bring in the records of the Communist Party of Los Angeles County, whether they are in your possession or not.” Now who is in charge of those records? That is the records they are talking about.

Mr. Margolis: And you construe that question to mean records of the Communist Party?

The Court: The records of the Communist Party of the [306] Los Angeles County Committee of the Communist Party, whatever its designation is.

Mr. Margolis: I see. All right.

The Court: In other words, the question on page 17 means, are the records of the Los Angeles County Communist Party, or the records of the Los Angeles County Committee of the Communist Party, or the Los Angeles County Committee of the Communist Party, in the place of business where you work and those are the same records that are identified quite



obviously by the previous questions concerning the record which she is directed to answer.

Page 18, line 4, you are ordered to answer the following question: "Q. Do you know who does have control over the records?"

The question on page 19 at line 23 is apparently a repetition of the previous question; as is also the question on page 20 at line 20.

At page 21, line 24, you are ordered to answer this question: "Q. Who has those records that you say you do not have access to?"

Mr. Margolis: Where is that?

The Court: That is page 21, line 24.

On page 22 there is a question here but I do not understand it; nor on page 24, there is another refusal; likewise on page 25. I do not understand that. [307]

Page 26 there is another question there, line 4: "Q. Will you produce those records?" The witness said she declined to answer on the same grounds. Apparently she understood the question, and while it may not be clear to me it was apparently clear enough to her to decline to answer on the ground that it would be self-incriminating. She is therefore directed to answer that question.

Mr. Margolis: I don't see, your Honor, how you can order a question to be answered that your Honor doesn't understand. I don't understand what it is.

The Court: "Q. Will you produce those records?" They were talking about records.

Mr. Goldschein: Records previously discussed.

Mr. Margolis: There have been a lot of records

previously discussed, including all of the records of the Communist Party of Los Angeles County. If your Honor will go back to page 23 you can see what confusion there has been about discussion of the records and the government is taking the position they want every record that they have.

The Court: The books and records of the Communist Party pertaining to its membership. That is apparently what they are talking about on page 23.

Mr. Margolis: If you will look at line 14, your Honor, they say "whatever books or records of the Communist Party that you had with you." [308]

The Court: I think it is clear that they want the books and records of the Communist Party pertaining to its membership, and that is the Communist Party of Los Angeles County, or the Los Angeles County Committee of the Communist Party.

Mr. Margolis: That is what that is construed to refer to, is that correct?

The Court: That is right.

On the motion of the government for an order directing Dorothy Healey to produce the records of the Los Angeles County Committee of the Communist Party, or the Los Angeles County Communist Party, or the Communist Party of Los Angeles County, however it may be designated, the financial records, the membership records, the statistical data, that motion will go off calendar at the present time to be reset either on motion or of the court's own motion.

Now do you understand the order of the court, Mrs. Healey?

The Witness Healey: Yes, I do.

The Court: That you are to appear before the grand jury and answer the questions which I have designated and which your counsel has checked in the record?

The Witness Healey: Yes.

The Court: And that is next Tuesday, June 14th, at 9:30 o'clock in the morning.

Court is adjourned.

(Whereupon, at 11:00 o'clock a.m., court was adjourned.) [309]

### CERTIFICATE

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 23rd day of June, A.D., 1949.

/s/ AGNAR WAHLBERG,  
Official Reporter.

[Endorsed]: Filed June 28, 1949. [310]

June 14, 1949; 11:30 o'clock a.m.

The Court: Mr. Clerk, have you called the roll of the grand jury?

The Clerk: I have, your Honor, and there is a quorum present.

The Court: Mr. Foreman, you have a presentment to make?

Foreman Ahlswede: Yes, we have, your Honor.

The Court: Mr. Carter?

Mr. Carter: We desire to present the witness Max Appelman, also Matt Pelman.

Mr. Goldschein: May it please the court, Mr. Max Appelman was a witness who appeared before the grand jury in session this morning.

The Court: Excuse me, counsel. There was a case on trial here and I think they had just as well be excused until 2:00 o'clock.

Proceed, Mr. Goldschein.

Mr. Goldschein: Mr. Max Appelman, a witness who was subpoenaed and appeared before the Federal grand jury this morning was asked certain questions which he refused to answer claiming his privilege against self-incrimination. The grand jury insists that there is no self-incrimination involved in the questions asked or the answers that the witness might give. Therefore they ask the court to hear the questions [3\*] propounded to the witness and the answers he gave to determine whether or not the answers would tend to incriminate the witness for violation of a Federal offense, that is, whether there is any direct tendency to incriminate himself.

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\* Page numbering appearing at top of page of original Reporter's Transcript.

The Court: The witness Appelman is here?

Mr. Appelman: Yes.

The Court: You are Max Appelman?

Mr. Appelman: Yes, sir.

The Court: I see Mr. Margolis at the counsel table. Mr. Margolis is your counsel?

Mr. Margolis: I am here appearing for Mr. Appelman; that is right.

The Court: Let us have an answer from Mr. Appelman for the record. I do not doubt your word.

Mr. Appelman: What is it you want to know?

The Court: I want to know if Mr. Margolis is appearing in this proceeding as your attorney.

Mr. Appelman: Yes, sir.

The Court: Very well. Proceed.

Mr. Goldschein: Mr. E. L. Drummond.

### E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Your name, sir?

The Witness: E. L. Drummond. [4]

The Clerk: Take the stand.

### Direct Examination

By Mr. Goldschein:

Q. This is Mr. E. L. Drummond?

A. Yes, sir.

Q. Mr. Drummond, you are the official court reporter attending the grand jury this morning?

A. I am.

Q. And sworn as such?                      A. Yes, sir.

(Testimony of E. L. Drummond.)

The Court: That is to say, the grand jury impaneled in the September term of 1948 and continued by order of court and under statute?

Mr. Goldschein: To complete the investigation originally begun.

The Court: Very well.

Q. (By Mr. Goldschein): Mr. Drummond, you were duly sworn as the official court reporter, were you not? A. Yes, sir.

Q. Now this morning were you present in the grand jury room when Mr. Max Appelman appeared as a witness? A. I was.

Q. Was he sworn?

A. He was sworn by the foreman. [5]

Q. Did you take down in shorthand the questions that were propounded to him and the answers that he gave? A. I did.

Q. Do you have those with you?

A. I have.

Q. Have you transcribed them?

A. No, sir.

Q. Will you please read the questions asked and the answers that he gave? A. Yes, sir.

#### QUESTIONS RELATING TO MAX APPELMAN

“By Mr. Goldschein:

“Q. Your full name is Max Appelman, is it?

“A. Yes, sir.

“Q. Where do you live?



(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelman.)

“A. At the moment my address is 656 Hanover Street, Daly City.

“Q. How long have you been living there?

“A. Since, I don’t remember the exact date. The end of December.

“Q. Where were you living prior to that, Mr. Appelman?

“A. My address was 2441 McCready in this city.

“Q. Are you married, sir?      “A. Yes, sir.

“Q. Is your family living in the city here?

“A. No, my family is living at 656 Hanover Street in Daly City.

“Q. What is your business, sir?

“A. I am the personal representative of a man who has many enterprises.

“Q. Who are you employed by?

“A. Mr. John Danz.

“Q. Where is he located?

“A. In Seattle, Washington.

“Q. What is his business?

“A. He is a capitalist. He has investments in many businesses.

“Q. You say Seattle?

“A. That is right.

“Q. What is his address in Seattle?

“A. Palomar Theater Building, Seattle 1.

“Q. Were you ever employed by the United States Government in a civilian capacity?

“A. No, I was never employed.

“Q. Mr. Appelman, this grand jury is investi-

(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelman.)

gating Federal employees who have made false statements to the Federal government with reference to their connection with certain organizations.

“Now, you having been an employee of the [7] Federal government, this investigation would not concern you, would it?      “A. I presume not.

“Q. Now, do you know Dorothy Healey?

“A. Yes, I know Dorothy Healey.

“Q. She is the organizational secretary of the Los Angeles County Committee of the Communist Party, is she not? You know that generally, or do you?

“A. I am afraid I would have to refuse to answer that question on the grounds of possible self-incrimination.

“Q. You mean simply knowing her would incriminate you?

“Do you read the People's World at any time?

“A. I read it occasionally.

“Q. Do you ever see her referred to in that paper as organizational secretary of the Communist Party?      “A. I do not recall.

“Q. You don't recall ever seeing it. Would you be inclined to believe the designation of her in the People's World as organizational secretary of the Communist Party of Los Angeles?

“A. I don't understand the question.

“Q. If you saw her referred to in the People's World [8] as organizational secretary of the Com-

(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelman.)

munist Party of Los Angeles, would you think that was true?

“A. I couldn’t say whether I think it is true or not. I can say that it would not surprise me. She is known by reputation as a member of the Communist Party.

“Q. That is right.

“A. That is all I can answer to that. I don’t know whether it is true or false.

“Q. Don’t you know other than that—I am not interested in how you know, Mr. Appelman, I just want to know whether you do know that she is organizational secretary of the Communist Party.

“A. I must say again that I decline to answer that on the grounds of possible self-incrimination.

“Q. How long have you known her?

“A. I don’t know exactly. I have known her off and on and have seen her for many years.

“Q. Well, by ‘many years’ would you mean 10?

“A. I am trying to figure out what 10 years should bring me back to.

“Q. All right.

“A. Possibly. I am not sure.

“Q. How long have you been living in Los Angeles? “A. Since 1935. [9]

“Q. Do you know who the chairman of the Los Angeles County Communist Party is?

“A. I am afraid I will have to refuse to answer that question on the grounds of possible self-incrimination.

(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelman.)

“Q. Do you know who the membership director of the Los Angeles County Committee of the Communist Party is?

“A. I must give the same answer.

“Q. Do you know who the financial director of the Los Angeles County Committee of the Communist Party is?

“A. I again must give the same answer.

“Q. Can you tell us how many divisions there are of the Los Angeles County Committee of the Communist Party?      “A. I do not know.

“Q. Do you know whether or not each division—you know there are many of them, do you not?

“A. I do not know anything about the divisions.

“Q. Do you know anything about the sections, sir?

“A. I must decline to answer that on the grounds of possible self-incrimination.

“Q. Which are you claiming, the first or the [10] second?

“A. You asked me about the divisions. I don't know anything about the divisions.

“Q. Now, about the sections.

“A. I must decline to answer that on the grounds of possible self-incrimination.

“Q. Can you tell us whether or not each section of the Los Angeles County Communist Party keeps a membership list of the members in that section?

“A. I do not know anything about that.

“Q. Can you tell us whether each section has an organizer?

(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelmann.)

"A. I decline to answer that on the grounds of possible self-incrimination.

"Q. Can you tell us the names of any of the section organizers of the Los Angeles County Communist Party?

"A. I must decline to answer that on the grounds of possible self-incrimination.

"Q. Can you tell us whether each section has a membership director?

"A. I again must decline to answer that on the grounds of possible self-incrimination.

"Q. Have you also been known by the name of Matt Pelman? [11]

"A. Yes, sir.

"Q. How do you spell this Pelman?

"A. M-a-t-t, P-e-l-m-a-n.

"Q. One "l"? "A. That is right.

"Q. Where have you used that name?

"A. I decline to answer that on the grounds of possible self-incrimination.

"Q. You mean that telling us how or where you used that name would tend to incriminate you for a crime against the Federal government?

"A. Since you ask that question. I would like to consult with my attorney.

"Q. Just what are your duties now in your present work, what kind of work is it?

"A. I do a variety of things. I have bought real estate. I have investigated the possibilities of investments in various things. I have almost bought

(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelman.)

real estate in investigating. That is generally the nature of my work.

“Q. Are you one of those financial experts so-called? We say so-called since the market crash.

“A. That is true. Well, that is for other people to say.

“Mr. Goldschein: All right, sir, we will recess.

“Mr. Carter: Wait outside.”

The Court: What was that question, where have you used that name? What name were they talking about?

The Witness: Matt ——

The Court: Hellman?

The Witness: Pelman, P-e-l-m-a-n.

The Court: Matt Pelman?

The Witness: That is right.

The Court: Cross-examine.

#### Cross-Examination

By Mr. Margolis:

Q. Have you read to us all of the matters that occurred before the grand jury with respect to Max Appelman this morning?

A. No. He was later recalled at 11:10.

Mr. Goldschein: Read the balance of it, if there is any other.

The Court: I thought that was all of it.

The Witness: No, he was recalled.

The Court: Very well.



(Testimony of E. L. Drummond.)

(Questions Relating to Max Appelman.)

Direct Examination (Continued)

By Mr. Goldschein:

Q. Will you proceed, Mr. Drummond?

A. Yes.

“By Mr. Goldschein: [13]

“Q. Mr. Max Appelman recalled.

“Mr. Appelman, do you know who has the books and records of the Los Angeles County Communist Party or the Los Angeles Committee of the Communist Party? “A. I do not know.

“Q. Do you know who is in charge of their office in Los Angeles? “A. I do not know.

“Q. Have you ever been to their offices in Los Angeles?

“A. I decline to answer that on the grounds of possible self-incrimination.

“Q. You say you don't know who is in charge of the office here in Los Angeles?

“A. I don't know.

“Q. Did you know who was in charge when you were living here?

“A. I decline to answer that on the grounds of possible self-incrimination.

“Q. Did you know who had charge of the books and records when you lived here?

“A. I did not know.

“Mr. Goldschein: That is all, sir. You will wait out in the anteroom.” [14]

Then he was recalled to the room and ordered

(Testimony of E. L. Drummond.)

to attend in Judge Hall's court on the second floor.

The Court: That is all of it?

The Witness: That is all.

Cross-Examination—(Continued)

By Mr. Margolis:

Q. Have you given us everything now that occurred in the grand jury room this morning with respect to Mr. Appelman? A. I have.

Mr. Margolis: No further questions.

The Court: Proceed.

Mr. Goldschein: May it please the court, the government and the grand jury insist there is nothing in those questions the answer to which would tend to incriminate the witness for the violation of a Federal offense. We respectfully request the court to instruct the witness that he must answer the questions.

Further suggest, may it please the court, that the witness may have some reason other than that which he would like to state in open court but that he would like to state privately to the court outside of the hearing of government and defense counsel as to why the answers would tend to incriminate him. We respectfully suggest that if the witness so requests, the court give him an opportunity to explain his position [15] privately.

Mr. Margolis: Your Honor please, in order to save time I suggest that we be permitted to incorporate in full the record which was made in connection with the presentments or orders to answer

(Testimony of E. L. Drummond.)

questions against the respondents Healey, Averbuck, Newman and Greenfield, which hearings were held in this courtroom on Friday, June 10.

The Court: Which have heretofore been held.

Mr. Margolis: And Saturday, June 11, together with the records which were incorporated in those records with the same force and effect as though Mr. Appelman had actually been present at that time and the showing had been made with respect to him.

The Court: It is ordered that all matters and things presented in objection on the hearings which you have designated may be deemed to be offered and in objection at this time with the same force and effect as if Mr. Appelman had been present at that time and to the same force and effect as if they were again reincorporated here ad extenso in haec verba. [16]

\* \* \*

Mr. Goldschein: To grant Mr. Margolis' motion would, in effect, be drawing down that so-called iron curtain on the grand jury. The grand jury would be estopped from investigating further. The court would, in effect, say that the grand jury has no right to investigate these matters, you have no right to continue on and on and on until we find somebody who will give us the information that we are seeking. And certainly that is not the law. The grand jury has a right from its inception to make inquiry into these matters and as long as these witnesses defy the orders of the court, just so long

will the grand jury continue with these matters until they lift that veil of secrecy that seems to pervade all witnesses who come before it in this matter.

The Court: I see no reason to change the views that I have heretofore expressed concerning the objections which have heretofore been offered, and will adhere to those views.

In so far as the suggestion is made that the matter be postponed or be dropped until the Circuit Court of Appeals gets through with it, that would amount to a declaration by this court that if a witness on inquiry before a grand jury chooses to object for any ground which he may either consider frivolous or good, no matter how conscientious he may believe it to be, that the arm of the government, which is an exceedingly important arm in the matter of the maintenance of law and order and maintaining the government as a government of [19] laws, would be completely stopped. You could say a witness objects and therefore an inquiry must stop.

I have no idea when the Circuit Court of Appeals will rule on the question, and I do not think it was ever intended that the lower court should stop performing its duties because the Circuit Court of Appeals has some question under consideration and they have not been able to get around to deciding it. In other words, I think the case is postured here where it requires a decision on my part, and in adherence to what I consider to be my duty I will make it.

The questions, as I took them down, to which the

witness refused to answer on the ground he might incriminate himself, and which he is now ordered to answer, are as follows——

Mr. Margolis: May I ask your Honor to read them slowly so I can get them?

The Court: Very well.

Q. Do you know whether or not Dorothy Healey is the organizing secretary of the Los Angeles County Committee of the Communist Party?

Q. Do you know who the chairman of the Los Angeles County Communist Party is?

Q. Do you know who the membership director of the Los Angeles County Committee of the Communist Party is?

Q. Do you know who the financial director of the Los Angeles County Committee of the Communist Party is? [20]

Q. Do you know anything about the sections of the Los Angeles County Committee of the Communist Party?

Q. Do you know whether or not each section has an organizational director of the Los Angeles County Committee of the Communist Party?

Q. Do you know the names of any organizational directors for any sections of the Los Angeles County Committee of the Communist Party?

Q. Do you know whether or not each section has a membership director?

Q. Where have you used the name Matt Pelman, or where have you used that name?

Q. Have you ever been to their offices in Los Angeles?

The previous questions indicated they were talking about the offices of the Los Angeles County Committee of the Communist Party.

Mr. Margolis: Offices in Los Angeles?

The Court: In Los Angeles.

The last question: Q. Did you know who was in charge of that office while you were living here? And I understood the witness to have stated that he lived here until last December, which was during a period or during a portion of the period of this inquiry.

Mr. Appelman, do you understand the order of the court?

Mr. Appelman: Yes, sir. [21]

The Court: When is the grand jury going back?

Mr. Goldschein: 2:00 o'clock, may it please the court.

Mr. Margolis: If your Honor please, I have a problem with respect to that. Mrs. Healey has been ordered back here at 2:00 o'clock and now the government is asking that Mr. Appelman be ordered back here at 2:00 o'clock, and other witnesses have been ordered back, as I understand it, before the grand jury at 2:00 o'clock. I can't be in both places at the same time and I would like to ask—

The Court: I have some other matters to take up at 2:00 o'clock.

Mr. Margolis: May I go to the grand jury and ask that these matters be held until I get here?

The Court: I will hold them until you get down here. I imagine I will have other matters to keep me busy until you do.



Mr. Margolis: I understand then that the matter will not proceed until we come down?

The Court: Yes.

Mr. Appelman, you are now ordered and directed to be and appear before the grand jury at its regular meeting place on the sixth floor of this building, the same grand jury before whom you appeared this morning, at the hour of 2:00 o'clock today, and then and there answer the questions which I have heretofore indicated you should answer, and the objections to [22] which are overruled.

Do you understand that order?

Mr. Appelman: I understand.

The Court: Very well. Recess until 2:00 o'clock.

### CERTIFICATE

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 24th day of June, A.D., 1949.

/s/ AGNAR WAHLBERG,

Official Reporter.

[Endorsed]: Filed July 28, 1949. [24]

June 14, 1949; 4:00 o'Clock P.M.

The Clerk: Mr. Carter has an exparte matter, your Honor.

The Court: Mr. Carter?

Mr. Carter: The grand jury is present, and a quorum is present.

The Court: Has the roll been called?

The Clerk: Yes, your Honor. A quorum is present.

The Court: Very well.

Mr. Carter: The grand jury desires to make a presentment of criminal contempt to five of these witnesses.

The Court: Pass them up to me.

(The documents referred to were passed to the court.)

The Court: Dorothy Ray Healey present?

The Defendant Healey: Yes.

The Court: Have you passed her a copy, counsel?

Mr. Goldschein: No, sir.

Mr. Carter: No, I have not.

The Court: I will hand them to the bailiff.

Horace Morton Newman, Jr., is present.

Max Appelman is present.

Elvador G. Greenfield is present.

And Alvin Abram Averbuck is present.

Mr. Margolis and Mr. McTernan are counsel for each of [5\*] you? (Assent.)

Is that correct, Mrs. Healey?

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\* Page numbering appearing at top of page of original Reporter's Transcript.

The Defendant Healey: I beg your pardon?

The Court: Mr. Margolis and Mr. McTernan are presently counsel for each of you?

The Defendant Healey: That is right.

The Court: Very well. The record will show that Mr. Averbuck, Mr. Greenfield, Mr. Appelman, Mr. Newman and Mrs. Healey are present in court with their counsel, Mr. Margolis and Mr. McTernan.

This is a motion which you, as foreman of the grand jury and on behalf of the grand jury, wish to present and file?

Foreman Ahlswede: It is, your Honor.

The Court: Very well. The Clerk will receive them and file them and will arraign each of the defendants.

Do you have more copies or just your office copies?

Mr. Carter: We have the office copies only. Two copies were filed with the Clerk. There is generally one copy for the court and one for the defendant.

The Court: I will hand the court's copy to defendants' counsel in each case.

Mr. Goldschein: There is the other copy.

Mr. Carter: I assumed that that was the purpose of arraigning the defendants.

The Court: That is correct. [6]

Do you have a copy that I might look at in the meanwhile here while the Clerk has the original?

(The document referred to was passed to the court.)

The Clerk: These are filed, your Honor.

The Court: Very well. You will arraign Mr. Greenfield.

The Clerk: Elvador G. Greenfield, that is your full, true and correct name?

The Defendant Greenfield: That is right.

The Clerk: You are informed that a grand jury presentment has been filed in this court charging you with criminal contempt in violation of Section 401, Title 18 United States Code.

You are entitled to be represented by counsel and a trial by the court. Is Mr. Ben Margolis and Mr. John T. McTernan your counsel of record?

The Defendant Greenfield: That is right.

The Court: Do you waive further reading, Mr. Margolis?

Mr. Margolis: Waive further reading.

The Court: Very well. Are you ready to plead?

Mr. Margolis: Yes, we are ready to plead.

The Court: The record will show that counsel for the defendant has heretofore, that is to say, within the last few moments, been handed a copy of the presentment.

Ascertain the defendant's plea.

The Clerk: Mr. Greenfield, what is your plea, guilty or [7] not guilty?

The Defendant Greenfield: Not guilty.

The Court: You will stand aside on the matter of setting for trial.

Mr. Averbuck.

The Clerk: Mr. Alvin Abram Averbuck, that is your full, true and correct name?

The Defendant Averbuck: That is right.

The Clerk: You are informed that a grand jury presentment has been filed in this court today charging you with criminal contempt in violation of Section 401, Title 18 United States Code.

You are entitled to be represented by counsel and a trial by the court. Is Mr. Margolis and Mr. John T. McTernan your counsel of record?

The Defendant Averbuck: That is right.

The Clerk: Do you waive further reading?

Mr. Margolis: Waive further reading.

The Clerk: Are you ready to plead?

The Defendant Averbuck: That is right.

The Clerk: What is your plea, guilty or not guilty?

The Defendant Averbuck: What I plead is that I am positive that I am not guilty.

The Court: Stand aside.

Mr. Appelman. [8]

The Clerk: Mr. Max Appelman, is that your full, true and correct name?

The Defendant Appelman: That is correct.

The Clerk: You are informed that a grand jury presentment has been filed in this court today charging you with criminal contempt in violation of Section 401, Title 18 United States Code.

You are entitled to be represented by counsel and a trial by the court: Is Mr. Margolis and Mr. McTernan your counsel of record?

The Defendant Appelman: That is true.

The Clerk: Waive further reading, Mr. Margolis?

Mr. Margolis: Waive further reading.

The Clerk: Are you ready to plead, Mr. Appelman?

The Defendant Appelman: Not guilty.

The Court: Stand aside.

Mr. Newman.

The Clerk: Horace Morton Newman, Jr., is that your full, true and correct name?

The Defendant Newman: Yes.

The Clerk: You are informed that a grand jury presentment has been filed in this court today charging you with criminal contempt in violation of Section 401, Title 18, United States Code.

You are entitled to be represented by counsel and a [9] trial by the court. Is Mr. Margolis and Mr. McTernan your counsel of record?

The Defendant Newman: Yes.

The Clerk: Do you waive further reading, Mr. Margolis?

Mr. Margolis: Waive further reading.

The Clerk: Are you ready to plead, Mr. Newman?

The Defendant Newman: Yes.

The Clerk: What is your plea, guilty or not guilty?

The Defendant Newman: Not guilty.

The Court: Stand aside.

Mrs. Healey.



The Clerk: Dorothy Ray Healey, is that your full, true and correct name?

The Defendant Healey: I am also Mrs. Connolly.

The Clerk: Dorothy Ray Healey Connolly?

The Defendant Healey: Yes.

The Court: How do you wish to be known, Dorothy Ray Healey also known as——

The Defendant Healey: I prefer to be known as Mrs. Dorothy Ray Healey.

The Court: Mrs. Dorothy Ray Healey?

The Defendant Healey: Right.

The Court: Very well. Your true name is, however, Dorothy Ray Healey Connolly?

The Defendant Healey: That is right. [10]

The Court: Very well.

The Clerk: You are informed that a grand jury presentment has been filed in this court today charging you with criminal contempt in violation of Section 401, Title 18 United States Code.

You are entitled to be represented by counsel and a trial by the court: Is Mr. Margolis and Mr. McTernan your counsel of record?

The Defendant Healey: They are.

The Clerk: Waive further reading, Mr. Margolis?

Mr. Margolis: Waive further reading.

The Clerk: Are you ready to plead, Mrs. Healey?

The Defendant Healey: Yes.

The Clerk: What is your plea, guilty or not guilty?

The Defendant Healey: Not guilty.

The Court: Very well. You may stand aside.

Each of the witnesses who have been charged with criminal contempt have pleaded not guilty. It is a matter now of setting the cases for trial.

Incidentally, the record will show that as to each of the defendants prior to their arraignment counsel were handed copies of the presentment as they were handed up to the court. [11]

\* \* \*

The Court: I will set it for trial on Thursday, June 23, at the hour of 10:00 o'clock in the morning. That is a week from this coming Thursday. I have to be in Fresno Monday for a calendar there which will probably take three days.

Mr. Margolis: In the meantime may these defendants be released pending that hearing, your Honor?

The Court: What is the attitude of the United States [15] Attorney?

Mr. Carter: We recommend bail. We have heard a lot of talk about how people always appeared in response to these matters, and some time back we had a spectacle of an individual who left the country when he was under \$23,000 bail——

Mr. Margolis: Is it the government's contention that these people are in the same category? If it is I think it ought to be stated in the record.

The Court: The suggestion is made by the defendants that that is the reason why they would answer the question, because they might be considered to be in the same category.

Mr. Margolis: Apparently the government takes the position that they are.

The Court: Let me see. Mr. Appelman, his subpoena was out for him since October 25?

Mr. Margolis: He is out on bail presently on \$1500.

The Court: And Mr. Newman, a subpoena was out for him since October 25?

Mr. Carter: That is right.

The Court: When was he first found?

Mr. Carter: He was found about——

The Court: In April?

Mr. Carter: Yes, I would say a month ago.

The Court: And Mr. Greenfield?

Mr. Carter: I don't have the exact dates. It was sometime [16] after the first of the year, I believe.

The Court: In other words, each of the defendants here except Mrs. Healey, has had a bench warrant out from the court since last November?

Mr. Margolis: No, your Honor.

Mr. Carter: There was no bench warrant for Mrs. Healey, nor for Mr. Averbuck, nor for—yes, I think there was a bench warrant for Mr. Appelman.

Mr. Goldschein: Yes.

Mr. Margolis: There wasn't one for Mr. Greenfield.

Mr. Carter: There was a bench warrant for Greenfield, wasn't there?

The Defendant Greenfield: Yes.

Mr. Margolis: Excuse me. I am wrong.

These people on bench warrants are already out on bail. I want to call your Honor's attention to the fact that these people have appeared on a number of times in court already.

The Court: Mr. Newman has no bail now of any kind, does he?

Mr. Margolis: That is correct.

The Court: And I set the bail at \$4000 when he was arrested on a bench warrant?

Mr. Margolis: That is correct, your Honor.

The Court: I will set his bail at \$4000 now.

Mr. Margolis: It seems to me that that is an exorbitant [17] bail for a misdemeanor. [18]

\* \* \*

The Court: The bond of each one of them will be \$4000. The trial will be set as of the time indicated.

Mr. Margolis: In addition, as to Mr. Appelman who is on a \$1500 bond?

The Court: His \$1500 bail will be exonerated. Any previous bail is exonerated and the bail is now set at \$4000.

Mr. Margolis: Mr. Greenfield is presently on \$4000 bail.

The Court: His previous bail for any previous appearance is now exonerated and the bail is now fixed at \$4000 for their appearance in response to this order for setting the case for trial for each one of the defendants. [19]

Mr. Margolis: May we have until tomorrow morning to post that bail, or may the defendants be released in the meantime on the assurance, your Honor, that we will post it early tomorrow morning? It is very late, it is 4:20 in the afternoon, we have been here since 2:00 o'clock sitting around waiting, your Honor. [20]

\* \* \*

The Court: Very well. The defendants may have until 6:30 to post bail. In the meantime they will be committed.

Mr. Margolis: May they be held upstairs until 6:30?

The Court: Yes. The marshal will hold them in the marshal's office in this building until 6:30, and if at that time bail in the sum indicated by the court has been fixed they [21] shall be released, and if not they shall not be committed to the bail, that is, to the regular place of confinement other than the marshal's office.

Court is adjourned.

(Whereupon, at 4:25 o'clock p.m., an adjournment was taken until 10:00 o'clock a.m., Thursday, June 23, 1949.) [22]

\* \* \*

June 23, 1949; 10:00 o'Clock A.M.  
(Other court matters.)

The Clerk: Nos. 20743, United States v. Max Appelman; 20744, United States v. Alvin Abram Averbuck; 20745, United States v. Elvador G. Greenfield; 20746, United States v. Dorothy Ray

Healey, and 20747, United States v. Horace Morton Newman, Jr., for trial.

Mr. Margolis: Ready, your Honor.

Mr. Carter: Ready for the government.

The Court: All the defendants are present in person?

Mr. Margolis: They are, your Honor.

The Court: And by counsel?

Mr. Margolis: Yes, your Honor.

The Court: Very well. Proceed.

Mr. Goldschein: Mr. E. L. Drummond, please.

#### E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Your name, sir?

The Witness: E. L. Drummond.

The Clerk: Your address, Mr. Drummond?

The Witness: 106 West Third Street.

The Clerk: Be seated. [24]

#### Direct Examination

By Mr. Goldschein:

Q. This is Mr. E. L. Drummond?

A. Yes, sir.

Q. What is your business, Mr. Drummond?

A. Court reporter.

Q. Are you the official court reporter for the United States District Court for the Southern District of California?      A. No.



(Testimony of E. L. Drummond.)

Q. You are the grand jury reporter?

A. For the grand jury; yes.

Q. Were you duly sworn to take down the testimony of the witnesses that appeared before the grand jury?      A. Yes.

Q. And transcribe it?      A. Yes, sir.

Q. Did you, on June 19, 1949, at 10:40 a.m. appear in the grand jury room of the United States District Court in Los Angeles?

The Court: June 19?

Mr. Goldschein: June 19.

The Court: I have before me Max Appelman's allegation which is June 14.

Mr. Goldschein: I am starting with Newman. I will begin with Appelman. [25]

The Court: I do not care what order you take them up in. That is the way they are on the calendar, and that is the way they are numbered numerically.

Q. (By Mr. Goldschein): On June 14, 1949, Mr. Drummond, did you take down in shorthand——

The Court: Were you then previously sworn as a court reporter?

The Witness: Yes, your Honor.

Q. (By Mr. Goldschein): Were you in the grand jury on that day, June 14, 1949?

A. I was.

Q. Were you there when the witness Max Appelman appeared before the grand jury?

A. I was.

(Testimony of E. L. Drummond.)

Q. Were you there when he was sworn as a witness?      A. I was.

Q. Was he asked questions before the grand jury?      A. He was.

Q. Did he answer questions before the grand jury?      A. He did.

Q. Did he make answers to the questions?

A. He did.

Q. Did you take down in shorthand those questions and [26] transcribe them?      A. Yes, sir.

Q. Did you do that accurately?

A. Yes, sir.

Q. Do you have with you the questions that were asked him and the answers that he made transcribed?

A. I have my notes. I haven't the transcript. The transcript has been delivered to the United States Attorney.

Q. You did transcribe them, however?

A. Yes, sir.

Q. Will you examine this transcript and tell us whether or not it is the transcript that you made of the testimony of Max Appelman?

A. (Examining document): It is.

Q. Will you read into the record, please, sir, the questions asked and the answers made by Max Appelman?      A. Yes, sir.

(Testimony of E. L. Drummond.)

“MAX APPELMAN

called as a witness before the grand jury, having been first duly sworn by the Foreman, was examined and testified as follows:

“Examination

“By Mr. Goldschein:

“Q. Your full name is Max Appelman, is it?

“A. Yes, sir. [27]

“Q. Where do you live?

“A. At the moment my address is 656 Hanover Street, Daly City.

“Q. How long have you been living there?

“A. Since, I don't remember the exact date. The end of December.

“Q. Where were you living prior to that, Mr. Appelman?

“A. My address was 2441 McCready in this city.

“Q. Are you married, sir?

“A. Yes, sir.

“Q. Is your family living in the city here?

“A. No, my family is living at 656 Hanover Street in Daly City.

“Q. What is your business, sir?

“A. I am the personal representative of a man who has many enterprises.

“Q. *You* are you employed by?

“A. Mr. John Danz.

“Q. Where is he located?

(Testimony of E. L. Drummond.)

(Statement by Max Appelman.)

“A. In Seattle, Washington.

“Q. What is his business?

“A. He is a capitalist. He has investments in many businesses.

“Q. You say Seattle? [28]

“A. That is right.

“Q. What is his address in Seattle?

“A. Palomar Theater Building, Seattle 1.

“Q. Were you ever employed by the United States government in a civilian capacity?

“A. No, I was never employed.

“Q. Mr. Appelman, this grand jury is investigating Federal employees who have made false statements to the Federal Government with reference to their connection with certain organizations.

“Now, you never having been an employee of the Federal Government, this investigation would not concern you, would it?

“A. I presume not.

“Q. Now, do you know Dorothy Healey?

“A. Yes, I know Dorothy Healey.

“Q. She is the organizational secretary of the Los Angeles County Committee of the Communist Party, is she not? You know that generally, or do you?

“A. I am afraid I would have to refuse to answer that question on the grounds of possible self-incrimination.

“Q. You mean simply knowing her would incriminate you?

(Testimony of E. L. Drummond.)

(Statement by Max Appelman.)

“A. I have already said that I know her. [29]

“Q. And knowing what her business is would incriminate you?

“Do you read the People’s World at any time?

“A. I read it occasionally.

“Q. Do you ever see her referred to in that paper as organizational secretary of the Communist Party?

“A. I do not recall.

“Q. You don’t recall ever seeing it. Would you be inclined to believe the designation of her in the People’s World as organizational secretary of the Communist Party of Los Angeles?

“A. I don’t understand the question.

“Q. If you saw her referred to in the People’s World as organizational secretary of the Communist Party of Los Angeles, would you think that was true?

“A. I couldn’t say whether I think it is true or not. I can say that it would not surprise me. She is known by reputation as a member of the Communist Party.

“Q. That is right.

“A. That is all I can answer to that. I don’t know whether it is true or false.

“Q. Don’t you know other than that—I am not interested in how you know, Mr. Appelman, I just want to know whether you do know that she is organizational secretary of the Communist Party.

“A. I must say again——”

(Testimony of E. L. Drummond.)

(Statement by Max Appelman.)

Q. Excuse me. Mr. Drummond, were you present in the grand jury room when Mr. Appelman was recalled a second time after an order of the court was made on him? A. I was.

Q. Were you present when questions were asked him and answers given by him before the grand jury the second time that day?

A. Yes, sir.

Q. Did you take down in shorthand and transcribe the testimony he gave at that time?

A. Yes, sir.

Q. Do you have that in that same record?

A. I have it.

Q. Now will you read that? What you just read you read on a previous occasion in this court?

A. Yes, sir.

The Court: That is to say, that was the first appearance of Mr. Appelman before the grand jury?

The Witness: Yes, sir.

The Court: Now what you are asking is his second appearance after the presentment by the grand jury to the court?

Mr. Goldschein: That is right, and after the court ordered [31] him to answer.

The Court: Very well.

The Witness: It really was his third appearance because he was recalled at 11:10 for some more



(Testimony of E. L. Drummond.)

(Statement by Max Appelman.)

questions and then recalled again after his appearance in court at 2:23.

Mr. Goldschein: That is right.

Q. Will you continue, please?

A. Yes, sir.

“Examination

“By Mr. Goldschein:

(Mr. Max Appelman recalled.)

“Q. Mr. Appelman, you were in Judge Hall’s courtroom this morning, were you not?

“A. Yes, sir.

“Q. You heard Judge Hall direct you to answer certain questions that were propounded to you before the grand jury this morning?

“A. Yes, sir.

“Q. I will read those questions off to you, and you will answer them as directed, please, sir.

“Do you know that Dorothy Healey is the organizational secretary of the Los Angeles County Committee of the Communist Party?

“A. I must give you the same answer. I decline to answer on the grounds that it may incriminate me. [32]

“Q. The second question: Do you know who the chairman of the Los Angeles County Communist Party is? “A. The same answer.

“Q. The third question is: Do you know who the membership director of the Los Angeles County Committee of the Communist Party is?

(Testimony of E. L. Drummond.)

(Statement by Max Appelman.)

“A. The same answer, sir.

“Q. The fourth question: Do you know who the financial director of the Los Angeles County Committee of the Communist Party is?

“A. The same answer.

“Q. The fifth question: Do you know anything about the sections? That is, sections of the Los Angeles County Communist Party.

“A. Same answer.

“Q. Sixth: Can you tell us whether each section has an organizer? “A. Same answer.

“Q. Seventh: Can you tell us the names of any of the section organizers of the Los Angeles County Communist Party? “A. Same answer.

“Q. Eighth: Can you tell us whether each section has a membership director? [33]

“A. Same answer.

“Q. Will you tell us, No. 9, Mr. Appelman, where have you used that name, Matt Pelman?

“A. Same answer.

“Q. Tenth: Have you ever been to their offices in Los Angeles? That is, the offices of the Los Angeles County Communist Party.

“A. Again I must answer in the same way.

“Q. 11: Did you know who was in charge when you were living here? That is, who was in charge of the offices of the Los Angeles County Committee in Los Angeles?

(Testimony of E. L. Drummond.)

(Statement by Max Appelman.)

“A. I must answer in the same fashion.

“Q. You, of course, realize that those are the questions that Judge Hall directed you to answer this morning? I didn’t hear your answer.

“A. I heard him so instruct me.

“Q. And you refuse to answer?

“A. I feel that I cannot answer on the grounds that it may personally incriminate me.”

Q. Were there any other questions asked him or answers given by him?

A. Nothing except Mr. Goldschein said, “All right, sir. Will you wait in the anteroom?”

Mr. Goldschein: That is all with reference to Max [34] Appelman, if the court please.

The Court: Cross-examine.

Mr. Margolis: No questions.

The Court: How do you wish to proceed, as to each one separately or to have the government present all of the matters? Each defendant is entitled to proceed separately.

Mr. Margolis: We would not insist upon that method of procedure, your Honor: I think it would facilitate the matter, because our defensive material will be common to all and I see no need for repeating it.

The Court: Very well.

I think the witness will have to be sworn in each case. This is Case No. 20744, United States v. Alvin Abram Averbuck.

## E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name for the record.

The Witness: E. L. Drummond.

The Clerk: Take the stand.

## Direct Examination

By Mr. Goldschein:

Q. This is Mr. E. L. Drummond?

A. Yes, sir.

Q. Mr. Drummond, are you the official grand jury reporter for the United States District Court for the Southern [35] District of California?

A. I am one of them.

Q. Were you present in the grand jury room on June 14, 1949, when Alvin Abram Averbuck appeared before the grand jury? A. I was.

Q. Were you sworn as the official court reporter? A. I was.

Q. For the grand jury? A. Yes, sir.

Q. Were you present when Alvin Abram Averbuck was sworn as a witness before the grand jury?

A. He was not sworn that morning; he was recalled from a previous appearance when he was sworn.

Q. He was previously sworn? A. Yes, sir.

Q. Now on that morning did you take down in shorthand and transcribe all the questions asked Mr. Averbuck?

(Testimony of E. L. Drummond.)

The Court: What date?

Mr. Goldschein: June 14, 1949.

Q. And the answers he gave? A. I did.

Q. Will you examine this transcript, Mr. Drummond, and tell us whether or not you can identify it as the one that you transcribed?

A. (Examining document): It is. [36]

Q. Will you read, please, sir, the questions that were asked him and the answers he gave?

A. Yes.

“Examination

“By Mr. Carter:

(Mr. Alvin Abram Averbuck recalled.)

“Q. Mr. Averbuck, you have previously been before this grand jury and have been asked certain questions which you have refused to answer, claiming the privilege against self-incrimination. You are familiar with that?

“A. That is correct.

“Q. You were in the courtroom of Judge Hall on June 9, 10 and 11, Thursday, Friday and Saturday of last week, were you not?

“A. That is correct.

“Q. And you were present on June 11, when Judge Hall made an order that you answer certain questions? “A. That is correct.

“Q. Now, Mr. Averbuck, in order to remove any possible doubt in your mind or any fear of Federal prosecution, we are prepared at this time to offer you immunity in the broadest possible terms, I as

(Testimony of E. L. Drummond.)

(Statement By Alvin Abram Averbuck.)

United States Attorney, Mr. Max Goldschein as Special Assistant to the Attorney General, and under the authority of the Attorney General.

“We propose to promise and offer to you that if you accept this proposal no testimony that you may give may be used against you hereafter at any criminal prosecution, and we so make that proposal to you. I say ‘we,’ Mr. Goldschein and myself acting in our official capacities.

“There is a public record of this statement here before the court reporter for this grand jury. Do you understand what I have told you?

“A. I do, but my attorney advises that you have no right to make such a grant, that it is not in your power, that such an offer and grant is not within your power.

“Q. You understand further that where such a proposal is made by a Federal officer that any court, District Court, any Federal Court, would feel it would be unfair and inequitable and unjust to thereafter prosecute you on any testimony that you give, when you give it relying upon that kind of an offer and that kind of a proposal?

“A. Well, I stand by the same answer.

“Q. Now, Mr. Averbuck, I am going to ask you now seriatim the questions which Judge Hall on June [38] 11th found would not incriminate you and ordered you to answer, referring to page 45 of the court transcript of May 26th.



(Testimony of E. L. Drummond.)

(Statement By Alvin Abram Averbuck.)

“Mr. Goldschein: Mr. Averbuck, that proposal was made to you not because the government thought that the answers which you would give would tend to incriminate you; as a matter of fact, the government is convinced that they would not tend to incriminate you for the violation of any Federal offense, but simply to allay any fears that you might have on the subject. That is all.

“Q. (By Mr. Carter): Referring to page 45 of the court transcript of May 26, 1949, you were asked about your work and referred to an office building in which you occasionally worked. The question was asked you as follows:

“Question No. 1: What name is on that door? I am asking you the question. That is the question which Judge Hall ordered you to answer.

“A. I refuse to answer on the grounds that it would possibly incriminate me.

“Q. No. 2: Do you know Mrs. Dorothy Healey?

“A. The same answer.

“Q. No. 3: Mr. Averbuck, do you know who has the books and records of the Los Angeles County [39] Communist Party?

“A. The same answer.

“Q. 4: Do you know how many divisions of the Los Angeles County Communist Party there are?

“A. The same answer.

“Q. No. 5: Do you know the names of any of the chairmen of any of the divisions of the Los Angeles County Communist Party?

(Testimony of E. L. Drummond.)

(Statement By Alvin Abram Averbuck.)

“A. The same answer.

“Q. 6: Do you know the names of the membership or social organizers of any of the divisions of the Los Angeles County Communist Party?

“A. The same answer.

“Q. 7: Do you know the names of the financial organizers or financial directors of any of the divisions of the Los Angeles County Communist Party?

“A. Same answer.

“Q. 8: Do you know the names of the officials of any of the divisions of the Los Angeles County Communist Party?      “A. Same answer.

“Q. 9: Did you ever see Mrs. Dorothy Healey with any of the books and records of the Los Angeles County Communist Party?

“A. The same answer. [40]

“Q. You were asked what your occupation was and you answered organizer. Question No. 10 was: For whom?      “A. The same answer.

“Mr. Carter: All right. You may be recessed at this time. You will wait in the anteroom.”

The Court: Is that the testimony given by Mr. Averbuck at that time?

The Witness: It was.

The Court: Very well. Cross-examine.

Mr. Margolis: No cross-examination.

The Court: No. 20745, United States v. Elvador G. Greenfield is the next one.

E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name for the record.

The Witness: E. L. Drummond.

The Clerk: Be seated, please.

Direct Examination

By Mr. Goldschein:

Q. This is Mr. E. L. Drummond?

A. Yes, sir.

Q. Mr. Drummond, are you the official grand jury reporter for the United States District Court for the Southern [41] District of California?

A. I am one of them.

Q. Were you duly sworn as such?

A. Yes, sir.

Q. Did you appear before the United States District Court grand jury on June 14, 1949?

A. I did.

Q. Were you present when the witness Elvador Claude Greenfield was recalled before the grand jury?

A. I was.

Q. Were you present when he was sworn as a witness on his first appearance?

A. I was.

Q. Did you take down in shorthand and properly transcribe the testimony that Mr. Greenfield gave before the grand jury?

A. I did.

Q. Will you examine this transcript, please, sir, and tell us whether or not you can identify it as

(Testimony of E. L. Drummond.)

the questions taken down by you and the answers he gave?

A. (Examining document): It is.

The Court: On June 14?

Q. (By Mr. Goldschein): On June 14, 1949?

A. Yes, sir. [42]

Q. Will you read that transcript, please, sir?

A. Yes, sir.

“Examination

“By Mr. Carter:

“Q. Elvador Claude Greenfield recalled, is that right? “A. Correct.

“Q. Mr. Greenfield, you have previously been before this grand jury and have been asked certain questions which you have declined to answer upon the ground you might incriminate yourself.

“A. Correct.

“Q. Were you in Judge Hall's courtroom June 9, 10 and 11 of this month?

“A. Yes, sir.

“Q. You were present, were you not, on June 11th in Judge Hall's courtroom, on Saturday morning, when he made an order that you answer certain questions? The government contends, contended at that time and now contends that those questions asked of you would not incriminate you, but in order that we may allay any suspicion or fear that you may have in your mind that you may be prosecuted should you answer any of those questions, prosecuted for a Federal offense.

(Testimony of E. L. Drummond.)

(Statement By Elvador Claude Greenfield.)

“We are prepared in behalf of the government to [43] offer you the broadest possible immunity we could offer you. That is, I as United States Attorney, Mr. Max Goldschein as a Special Assistant to the Attorney General, and acting under the authority of the Attorney General, we offer and promise you that if you accept this proposal and testify that nothing you say will or can be used against you in a criminal proceeding in Federal Courts, nor will any leads growing out of any testimony that you may give be used against you in any prosecution in the Federal Courts.

“That, in other words, is an offer or proposal of immunity in the broadest possible terms that I can state them.

“Now, do you accept that proposal?

“A. Well, I have been given to understand that you have no authority to give me immunity in any of these things, and that I may be prosecuted by another court or another body that wished to bring forward any indictment based upon anything that I might have said.

“Q. Well, it is true, Mr. Greenfield, there is no express statute covering this matter, but for centuries prosecutors under the English common law system have made offers and grants of immunity to [44] witnesses, and courts have upheld witnesses in relying upon those offers.

“Do you understand that any Federal Court

(Testimony of E. L. Drummond.)

(Statement By Elvador Claude Greenfield.)

would consider it unfair and inequitable and unjust, if you accepted that proposal, to thereafter entertain a criminal prosecution for violation of Federal law against you?

“A. Under the circumstances I could not accept the immunity as valid.

“Q. We ask you now the questions seriatim that Judge Hall ordered you to answer, referring to page 39 of the court Transcript of May 26th.

“No. 1: Now, do you know who has the books and records of the Los Angeles County Communist Party?

“A. I will have to give the same answer I did before, on the ground that it may incriminate me.

“Q. You were asked if you knew Dorothy Healey, and then the question which I will term No. 2 was this question: Was that the first time you ever saw her?

“A. I refuse to answer on the ground that it may incriminate me.

“Q. 3: Does she have the books and records of the Los Angeles County Communist Party, do you know?

“A. I refuse to answer that on the ground that it may incriminate me.

“Q. 4: Do you know who has the books and records of the Los Angeles County Communist Party?

“A. I refuse to answer on the ground it may incriminate me.



(Testimony of E. L. Drummond.)

(Statement By Elvador Claude Greenfield.)

“Q. 5: Mr. Greenfield, do you know whether or not the Los Angeles County Communist Party is divided up into divisions?

“A. I refuse to answer on the grounds it may incriminate me.

“Q. 6: Can you tell us how many divisions there are?

“A. I refuse to answer that on the ground it may incriminate me.

“Q. 7: Can you tell us whether or not each division of the Communist Party of Los Angeles County keeps books of the membership of that division?

“A. I refuse to answer on the same ground, that it may incriminate me.

“Q. 8: Can you tell us the names of the chairmen or organizers of these divisions?

“A. I refuse to answer on the ground it may incriminate me.

“Q. 9: Can you tell us whether or not those divisions each have a membership or social director? [46]

“A. I refuse to answer on the ground it may incriminate me.

“Q. 10: Mr. Greenfield, we want to know the names of those people who hold these offices.

“A. I refuse to answer on the ground it may incriminate me.

“Q. No. 11: Well, does each division have a

(Testimony of E. L. Drummond.)

(Statement By Elvador Claude Greenfield.)

financial director? If so, will you give us their names?

“A. I refuse to answer on the grounds it may incriminate me.

“Q. 12: Mr. Greenfield, I believe I asked you this morning whether or not you knew who had the books and records of the Communist Party. Will you answer that question?

“A. That was one of the duplicates he said I didn’t have to answer.

“Q. That was a duplicate of a question which preceded it, which one you refused to answer.

“A. He didn’t order me to.

“Mr. Carter: All right. You will be recessed, Mr. Greenfield. Will you wait outside in the ante-room?

“The Witness: Okay.”

Q. Were there any other questions asked?

A. No, sir. [47]

The Court: Cross-examine.

Mr. Margolis: No questions.

The Court: The next is No. 20746, United States v. Dorothy Ray Healey.

### E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

(Testimony of E. L. Drummond.)

The Witness: E. L. Drummond.

The Clerk: Take the stand.

Direct Examination

By Mr. Goldschein:

Q. This is Mr. E. L. Drummond?

A. Yes, sir.

Q. Mr. Drummond, you are the official grand jury reporter for the United States District Court for the Southern District of California?

A. I am one of them.

Q. Were you before the grand jury on June 14, 1949, when Dorothy Ray Healey was recalled as a witness?

A. I was.

Q. Did you take down on that day the questions that she was asked and the answers she gave in shorthand?

A. I did.

Q. Did you properly transcribe them? [48]

A. I did.

Q. Now were you sworn as the official court reporter?

A. I was.

Q. Mr. Drummond, can you identify this transcript as the transcript of the questions asked and the answers she gave that you transcribed?

The Court: On June 14?

Q. (By Mr. Goldschein): On June 14, 1949?

A. (Examining document): It is.

Q. Will you read the questions asked her and the answers that she gave, please, sir?

A. Yes, sir.

(Testimony of E. L. Drummond.)

“DOROTHY RAY HEALEY

recalled as a witness before the grand jury, having been previously duly sworn by the Foreman, was examined and testified as follows:

“Examination

“By Mr. Goldschein:

“Q. (Mrs. Dorothy Ray Healey recalled): Mrs. Healey, you have with reference to a great many questions asked you before this grand jury claimed that the answers that you would give might tend to incriminate you for the violation of a Federal offense. That is so, isn't it? [49]

“A. I think the record states as to why I refused to answer, Mr. Goldschein.

“Q. Now, in order to ease your mind with reference to any fear that you may have about incriminating yourself for the violation of a Federal offense, we want to advise you now so that you may testify freely without any such fear that the Federal Government will not prosecute you as the result of any information that you might give this grand jury or any leads that might be developed from any information that you give this grand jury.

“Now, with that assurance, which is of record here, do you feel free now——

“Mr. Carter: Let me go further, Mr. Goldschein. In the ordinary language of the layman, what Mr. Goldschein has stated is that the Federal

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

Government, through myself as United States Attorney and acting on authority of the Attorney General of the United States, are promising you, offering you immunity in the broadest possible terms, immunity from any Federal prosecution that would grow out of either your direct testimony or indirectly out of it, that is, a possible prosecution even based upon leads supplied by your testimony.

“In other words, we offer you immunity from Federal prosecution in the broadest possible language that we can offer. When I say ‘we,’ I refer to the United States Government acting through me as United States Attorney, Max Goldschein, Special Assistant to the Attorney General, and acting upon the authority of the Attorney General.

“The Witness: Is there a time period on that, Mr. Carter?

“Mr. Carter: There is no time period on it.

“The Witness: In other words, what you are stating is that the government has said to me that there would not be prosecution of me under the Smith Act or any section of the Smith Act on the basis of any testimony to be given before the grand jury?

“Mr. Carter: Stating that there would be no prosecution against you growing out of any evidence that you may supply. We are not going to categorically enumerate statutes. You might subsequently become involved in a narcotics case, and if the government made the narcotics case against

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

you and testimony indicates that you have been involved in that narcotics case, you might be prosecuted, but nothing you have said before this grand jury could be used against you in any prosecution that would be filed against you hereafter. [51]

“The Witness: Before I answer Mr. Goldscheine’s question, and it is a question of my answering it, I would like to consult with my attorney, inasmuch as this is certainly a new approach on the part of the government.

“Mr. Goldscheine: You may.

“The Witness: Thank you.

“(Witness leaves the room and returns.)

“The Witness: My attorney advises me that you have no power to make such a guarantee, and therefore I will have to stand on my previous answers.

“Q. (By Mr. Carter): Let me go a step further, then, in explaining this. There is a well-recognized principle of law that the government can’t in good faith, good conscience and equity, make that kind of a proposal and thereby induce you or secure or compel your testimony, and thereafter ever use that testimony against you, and regardless of what your attorney has advised you, I would advise for the record and publicly that in view of that statement made to you you could not be prosecuted for a Federal offense.

“A. Well, you will excuse me, Mr. Carter, if I sound a little personal, but I think you and the



(Testimony of E. L. Drummond.)

. (Statement By Dorothy Ray Healey.)

grand jury would agree with me that I can't be too much influenced by your protestations on this question, [52] inasmuch as for some time now the record would indicate that although ostensibly this grand jury is conducting an investigation of federal employees, actually again I say the record will show clearer than anything else the activity of the grand jury has been used for entirely different purposes.

“Q. (By Mr. Goldscheine): That is a conclusion on your part.

“A. Certainly I can give my own opinion of it, and I have that opinion very strongly and deeply. Mr. Carter says that very eloquently, and his actions have been something else entirely. I hope that Mr. Carter and you will excuse me if I am not impressed by your statement now.

“Q. We are not asking you to be impressed, but telling you as a matter of law that the Federal Government by its representatives cannot induce you to make a statement on the premise that you will not be prosecuted for making this statement, and then attempt to prosecute you after you make them. The courts won't permit any such thing to happen, and the government would have no idea of doing it.

“Now, what I say now to you is of record, the court reporter is present and taking it down.

“A. I am not a lawyer. I am a layman. [53]

“Q. The one question——

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.) .

“A. But I have discovered in this listening and sitting in court on this that law is subject to interpretation, and therefore you are giving me your interpretation. You will certainly excuse me if I take my own counsel’s interpretation.

“Q. I would like to advise you that we are not interested in your conclusions at all. The only thing we are interested in is offering you this privilege, if you want it. If you don’t want it, nobody is attempting to coerce you or force you. There was an offer made. You were given the opportunity to consult with your counsel. You decide that you do not want to accept it.

“A. That is correct.

“Mr. Goldschein: That ends it.

“Q. (By Mr. Carter): So the record will be clear, Mrs. Healey, I understand that although you fully understand what Mr. Goldschein and I have stated to you, that after consultation with your lawyer you again decline to answer the question previously asked you upon the ground that you might incriminate yourself, is that right?

“A. Well, let me state this, that you say the questions previously asked me—— [54]

“Q. You have been ordered by the court to answer certain questions. It is our purpose, this is again pursuant to the court order, to put again to you one by one the questions which the court ordered you to answer. You are familiar with what those questions are?           A. Right.

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

“Q. Those are the questions I refer to when I say am I right in understanding you are going to decline to answer those questions on the ground that you might incriminate yourself, rather than avail yourself of our promise to you?

“A. I would prefer to answer each individual question, Mr. Carter, alone.

“Q. (By Mr. Goldschein): The first question, Mrs. Healey, is: Will you tell us who you are organizer for? You previously stated you were an organizer.

“A. I decline to answer that question on the grounds previously stated.

“Q. The second question the court ordered you to answer is this: Now, Mrs. Healey, do you know who has the books and records of the Los Angeles County Communist Party?

“A. Same answer.

“Q. The third question is: Can you tell us, Mrs. [55] Healey, whether or not the Los Angeles County Communist Party has a chairman?

“A. Same answer.

“Q. The fourth question is: Can you tell us whether or not it has an organizational secretary?

“A. Same answer.

“Q. Can you tell us whether or not it has an educational director?                   A. Same answer.

“Q. Can you tell us whether or not it has a labor director?                   A. Same answer.

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

“Q. Can you tell us whether or not the membership or social director would have a list of the members of the Los Angeles County Communist Party? A. Same answer.

“Q. No. 8, can you tell us whether or not they have a financial director? A. Same answer.

“Q. No. 9, can you tell us whether or not the financial director would have a record of the dues paid by the members of the Los Angeles County Communist Party? A. Same answer.

“Q. The 10th question: Can you tell us who has [56] the records showing the dues paid by the membership of the Los Angeles County Communist Party? A. Same answer.

“Q. Now, No. 11: Now, Mrs. Healey, can you tell us the name of anyone who can give us that information I just asked you?

“A. Same answer.

“Q. 12th: But that information is available, is it not? A. Same answer.

“Q. 13th: Can you tell us how many divisions there are in the Los Angeles or the Los Angeles County Communist Party? A. Same answer.

“Q. 14: Can you tell us how many sections there are in the divisions? A. Same answer.

“Q. 15: Can you tell us how many clubs there are? A. Same answer.

“Q. Can you tell us how many squads there are?

“A. Same answer.

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

“Q. 17: Mrs. Healey, can you tell us who is chairman of the eastern division of the Los Angeles County Communist Party? [57]

“A. Same answer.

“Q. 18: Can you tell us who is the chairman of the midtown division of the Los Angeles County Communist Party? A. Same answer.

“Q. 19: Can you tell us who is the head of the southern division of the Los Angeles County Communist Party?

“A. Same answer. Excuse me, Mr. Goldschein. The air-conditioning is getting me. I wonder if I could be excused to get my jacket.

“Q. Yes.

“(Witness leaves the room and returns.)

“Q. (By Mr. Goldschein): No. 20: Can you tell us who is the head of the western division of the Los Angeles County Communist Party?

“A. Same answer.

“Q. 21: Can you tell us who is the head of the youth division of the Los Angeles County Communist Party? A. Same answer.

“Q. Can you tell us who is the head of the student section of that youth division? That is No. 22.

“A. Same answer. [58]

“Q. 23: Mrs. Healey, each division has a chairman, does it not? A. Same answer.

“Q. 24: Or sometimes called an organizer.

“A. Same answer.

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

“Q. 25: Does each division have an organizational secretary? A. Same answer.

“Q. 26: Does each have a membership or social secretary? A. Same answer.

“Q. 27: Does each have a membership or social director? A. Same answer.

“Q. 28: Does the membership or social director of each division have a list of the membership of that division? A. Same answer.

“Q. 29: Does each division have a financial director? A. Same answer.

“Q. 30: Do not the membership director and the financial director have the books and records of the Los Angeles County Communist Party?

“A. Same answer. [59]

“Q. 31: Will you tell us who has the books and records of the Los Angeles County Communist Party? A. Same answer.

“Q. 32: Now, that statement with reference to Mrs. Dorothy Ray Healey, the organizational secretary of the Los Angeles Communist Party, is that designation correct with reference to you?

“A. Same answer.

“Q. Mrs. Healey, you know what that refers to. That refers to an article in the People's World of April 28, 1949, that I read to you when you were before the grand jury here.

“A. I remember that.



(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

“Q. On a prior occasion. No. 33: What is your business address? A. Same answer.

“Q. 34: You are in charge of those records, are you not? That question pertains to the Los Angeles County Communist Party records.

“A. On June 11, 1949, I was served with two subpoenas duces tecum directing the production of the following records: 1, the books and records of the membership in the Communist Party of Los Angeles and Los Angeles Committee of the Communist Party; 2, books and records showing dues paid by members of the Communist [60] Party of Los Angeles and the Los Angeles Committee of the Communist Party; 3, mimeographed questionnaire sheets filled out by members of the Communist Party of Los Angeles and the Los Angeles Committee of the Communist Party.

“I am unable to produce any membership records of the Communist Party of Los Angeles or of the Los Angeles Committee of the Communist Party, or any of the records asked for in the subpoena duces tecum, because I do not have possession, control or custody or access to any such records.

“As a matter of fact, I do not know of the existence of any records concerning which you have questioned me or any records described in the subpoena duces tecum to which I referred, or of any records whatsoever showing the names of members of the Communist Party of Los Angeles or of the Los Angeles Committee of the Communist Party.

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

“Q. Who is in charge of the records of the Los Angeles County Communist Party?

“A. I decline to answer on the grounds previously stated.

“Q. Are these records in the place of business where you work? A. Same answer. [61]

“Mr. Carter: That is No. 35.

“Q. (By Mr. Goldschein): No. 36. Do you know who does have control over the records?

“A. Same answer.

“Q. (By Mr. Carter): Mrs. Healey, did you bring some papers or records with you when you came to the grand jury room this morning?

“A. I think I answered that question by the previous answer.

“Q. I am asking you if you brought some papers with you when you came to the grand jury room.

“A. Newspapers. Are you referring to what I was holding out there? Just newspapers.

“Q. Did you bring any records of any kind with you when you came in the Federal Building this morning? A. No, I did not.

“Q. (By Mr. Goldschein): Mrs. Healey, will you look at this government Exhibit No. 3, marked 6-10-49, marked In Re Healey, et al., June 10, 1949, No. 3 for identification, and under it No. 3 in evidence, signed by the Deputy Clerk, and see whether or not you recognize it as the signature card at the Security-First National Bank of Los Angeles with

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

the name Dorothy Ray Healey underneath? Do you see the card?

“A. Before I answer that question I would like to consult with my attorney.

“Q. Well, do you see the card?

“A. Certainly.

“Q. All right. Now, you consult with your attorney.       A. Thank you.

“(Witness leaves room and returns.)

“Q. (By Mr. Goldscheine): Let me read into the record what this card shows, so that we won't have to repeat. Do you want to watch me as I read it?       A. Not particularly.

“Q. I mean watch and read the card with me, to see that I read it accurately into the record. I don't mean watch me. This is headed, 'Security-First National Bank of Los Angeles,' dated 8-7-47:

“‘At a meeting of the Los Angeles County Committee of the Communist Party tax account, held on July 19, 1947, N. Sparks and/or Dorothy Ray Healey and Barbara Moreley, whose signatures are given on the reverse side of this card, were authorized, any two of them acting together, to execute checks and other items payable to this Committee; further, that this Committee agrees to the conditions propounded [63] in the bank book issued on Connection with this account with the Security-First National Bank of Los Angeles as to all de-

(Testimony of E. L. Drummond.)

(Statement By Dorothy Ray Healey.)

posits and withdrawals made on that account and to other transactions with said bank.

“ ‘/s/ N. S. SPARKS,

“ ‘President

“ ‘DOROTHY RAY HEALEY

“ ‘Secretary’

“Now, I believe I asked you whether or not that is your signature.      A. You did.

“Q. And your answer?

“A. Was the same answer I have given before.

“Q. Do you know the signature of N. Sparks?

“A. Same answer.

“Q. Will you tell us whether or not that is the signature of N. Sparks?      A. Same answer.

“Mr. Goldschein: All right, thank you, Mrs. Healey. Will you wait outside, please?”

Q. Is that all the questions that were asked Mrs. Healey and all the answers she gave?

A. It is.

Mr. Goldschein: Cross examine.

Mr. Margolis: No cross-examination. [64]

The Court: No. 20747, United States vs. Horace Morton Newman, Jr.

E. L. DRUMMOND

called as a witness by and in behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: Your name, sir?

The Witness: E. L. Drummond.

The Clerk: Be seated.

Direct Examination

By Mr. Goldschein:

Q. This is Mr. E. L. Drummond?

A. Yes, sir.

Q. Mr. Drummond, you are the official grand jury reporter for the United States District Court for the Southern District of California?

A. I am one of them.

Q. On June 14, 1949, did you appear before the United States district grand jury?

A. I did.

Q. And were you present on June 14, 1949, when Mr. Horace Morton Newman, Jr., appeared before the grand jury?

A. Yes, sir.

Q. Did you on that date take down in shorthand and transcribe all the questions asked him and the answers that he gave? [65]

A. I did.

Q. Will you examine this transcript—were you sworn to take down accurately and transcribe this testimony before the grand jury?

A. I was.

Q. Will you examine this transcript, dated June 14, 1949, and tell us whether or not those were the questions asked of Mr. Newman and the answers he gave on that day?

(Testimony of E. L. Drummond.)

A. (Examining document) They are.

Q. Will you read that transcript, please?

A. Yes, sir.

“Examination

“By Mr. Carter:

“(Mr. Horace Morton Newman, Jr., recalled.)

“Q. Mr. Newman, you have previously been before this grand jury and have been asked questions that you declined to answer. A. Yes.

“Q. You were present in Judge Hall’s court on June 9, 10, and 11, Thursday, Friday and Saturday of last week, and on Saturday, June 11, Judge Hall made an order that you answer certain questions. You are familiar with that order?

“A. Yes, sir.

“Q. Mr. Newman, so that you may have no fear [66] of any possible prosecution under Federal law, the Federal Government, the United States Government is now prepared, acting through myself as United States Attorney, Mr. Max Goldschein, as Special Assistant to the Attorney General, and by the authority of the Attorney General, to offer you immunity from any Federal prosecution in the broadest possible language.

“In other words, we offer and promise you in behalf of the Federal Government that you will not be prosecuted based upon any testimony that you give before this grand jury.

“In the language of the layman, that is an offer of immunity by the Federal prosecutor and from



(Testimony of E. L. Drummond.)

(Statement of Horace Morton Newman, Jr.)  
the Federal Government, stated in the broadest possible terms that I can state that.

“Do you understand what I have said to you?

“A. I understand it, yes.

“Q. Now in view of that statement that I have just made I would like to ask you these questions that you have been ordered to answer and see if we can't get you to answer them.

“Referring to, for the purpose of the record, page 67 of the court transcript of May 26, question No. 1: Do you know Dorothy Healey? [67]

“A. I am going to decline to answer that on the ground that to answer it might incriminate me.

“Q. And you are declining notwithstanding the fact that you fully understand the statement that I have just made to you?

“A. That is right. I am not changing my position.

“Q. No. 2: Do you know her office address?

“A. The same answer.

“Q. 3: Do you know her business or occupation?

“A. The same answer.

“Q. 5: Who are you educational director for?

“A. The same answer.

“Q. 6: Do you know who the financial director is for the eastern division of the Los Angeles County Communist Party?

“A. The same answer.

“Q. 7: Do you know who the membership or

(Testimony of E. L. Drummond.)

(Statement of Horace Morton Newman, Jr.)

social director is of the eastern division of the Los Angeles County Communist Party?

"A. The same answer.

"Q. No. 8: Now, who is the chairman of the Los Angeles County Communist Party?

"A. The same answer.

"Q. 9: Who is the organizational secretary of the Los Angeles County Communist Party?

"A. The same answer.

"Q. 10: Now, do you know whether or not the Los Angeles County Communist Party has a labor director? A. The same answer.

"Q. 10-A: Do you know whether or not they have a membership or social director?

"A. The same answer.

"Q. 11: Do you know whether or not the membership or social director has a list of the membership of the Los Angeles County Communist Party?

"A. The same answer.

"Q. 12: Do you know whether or not the Los Angeles County Communist Party has a financial director? A. The same answer.

"Q. 13: Do you know whether or not the financial director keeps an account of the dues collected from members of the Los Angeles County Communist Party? A. The same answer.

"Q. 14: Do you report to anybody who you see? Now, before you answer that, that question was asked in connection with your activities in your

(Testimony of E. L. Drummond.)

(Statement of Horace Morton Newman, Jr.)

business and your appointments and so forth. [69]

“Do you report to anyone who you see?

“A. The same answer.

“Q. 15: Do you know Dorothy Healey is the organizational secretary of the Communist Party of Los Angeles County? A. The same answer.

“Q. 16: Do you know whether Dorothy Healey has in her possession or under her control any books and records of the Communist Party of Los Angeles County? A. The same answer.

“Mr. Carter: You will be recessed at this time, Mr. Newman. Will you wait outside?

“The Witness: I will.”

Q. Were any other questions asked Mr. Newman or any other answers given by him?

A. No, sir.

The Court: Cross examine.

Mr. Margolis: None, your Honor.

Mr. Carter: You may step down, Mr. Drummond.

(Witness excused.)

The Court: Next witness.

Mr. Goldschein: That is all, may it please the court, except that we want to incorporate by reference the previous hearings of the grand jury and hearings of the court in this [70] matter.

The Court: They have not yet been transcribed?

Mr. Goldschein: Some of them haven't been transcribed.

The Court: The court will take judicial notice

of two things: First, that the grand jury has not been discharged and that there was an order made continuing it and, secondly, the court will take judicial notice of the proceedings before the court in connection with each of these witnesses on each of these matters, and that the order was made directing them to be and appear before the grand jury on June 14 to give answer to these questions—whether or not there were others I do not recall, but at least to these questions on that date—which is, in effect, to incorporate into the government's case all of the previous proceedings in connection with these witnesses.

Mr. Goldschein: Yes, sir.

The Court: Very well. The government rests?

Mr. Goldschein: The government rests.

Mr. Margolis: I just wonder if I might ask through the court if the government has forgotten any witnesses at this time.

Mr. Goldschein: Well, something may develop. We don't know at this time. We have no witnesses at the present. It may be necessary to call some others, however.

Mr. Margolis: I think if the government has any other [71] witnesses they should call them now before they close their case, your Honor.

The Court: The government has rested.

Mr. Margolis: If your Honor please, it is my understanding that we proceed in this manner with

the five cases following each other so that a single showing might be made on behalf of each of these different defendants. Am I correct in that, your Honor?

The Court: If that is your desire.

Mr. Margolis: That is my desire.

The Court: Is there any objection to that?

Mr. Goldschein: No objection.

The Court: Very well. That is the way the matter will be considered. In other words, everything that is offered defensively will be considered as having been offered separately as to each one of the witnesses and as to each question and as to each single objection.

Mr. Margolis: Thank you, your Honor.

Now, if your Honor please, in order to shorten the proceeding, and following the practice heretofore had, I would like to have considered as part of this record the showing made by the then respondents, now defendants, in connection with the proceedings to which counsel for the government has referred and in which proceedings the government asked for a direction to the witnesses to answer these questions and in [72] such direction an order was issued by this court, those proceedings having taken place I believe on the 14th of this month.

The Court: There were various dates in connection with the several witnesses. I think as to New-

man there was April 21, 1949, May 26, 1949, June 9, 1949 and June 11, 1949.

I understand your proposal is, and I thought that I had made the order broad enough in connection with the government's offer, that all previous proceedings had in connection with any of these witnesses before this court are deemed to be in evidence and I take judicial notice of them.

Mr. Margolis: I see. That includes defensive material as well and includes offers of proof and all of that?

The Court: I put in everything.

Mr. Margolis: The same rulings would have been made in this case, and so forth?

The Court: That is right. Now I will make the same order in so far as the defendants are concerned. If the order I have made as far as the government is concerned is not broad enough it will be broadened to include every fact, thing, statement, argument, case heretofore offered in connection with these proceedings on behalf of any of these defendants in objection and in opposition to the proposed order of the government heretofore made, to the same force and effect as if herein again *ad extenso in haec verba* repeated.

Mr. Margolis: That will considerably shorten our showing, your Honor.

We have a few additional matters that we want to



present. I have handed counsel a document to examine.

The Court: Very well.

Mr. Goldschein: Of course we are not in position to read this document. We know what the first case says.

The Court: You may have a few minutes recess in which to read it.

(Short recess.)

The Court: The record will show the defendants are present in person and by counsel.

There was some document you were looking at. Have you had an opportunity to read it, Mr. Goldschein?

Mr. Goldschein: No, sir, I haven't, may it please the court. It is a document containing 29 pages. I have looked through it. It purports to be a report of the Committee on Un-American Activities at the United States House of Representatives on "100 Things You Should Know about Communism in the U. S. A." I don't know what purpose it is offered for. It certainly has no bearing, as I see it, to the issues involved here.

The Court: Do you want to mark it for identification? Are you going to use it in argument? It being a public record I suppose I can take judicial notice of it, as well as [74] of all the proceedings that go on before the various committees of Congress and the proceedings of Congress itself.

Mr. Margolis: Yes.

Your Honor, I would like to state the purpose of this, in view of the fact that counsel has asked the question. I have here a document entitled "100 Things You Should Know about Communism in the U. S. A.," prepared and released by the Committee on Un-American Activities, U. S. House of Representatives, Washington, D. C., and printed by the Government Printing Office.

This is a document of which, as your Honor has indicated, your Honor could take judicial notice. However, I would like to have it marked either for identification—after I state the purpose of it—or in evidence, merely so that your Honor will have before you the matter which you are entitled to take judicial notice of.

The Court: It will be marked for identification as Exhibit A in No. 20743—well, perhaps in order to keep the record entirely straight in connection with these matters, counsel would have no objection if an order were now made consolidating all of these matters for trial.

Mr. Margolis: I have no objection.

The Court: And it may be deemed that that order shall be deemed to have been made at the commencement of the proceedings this morning?

Mr. Margolis: It may be so deemed, as far as the defendants are concerned.

The Court: Is there any objection on the part of the government?

Mr. Goldschein: Sir?

The Court: I suggested that an order be made now and deemed to have been made at the commencement of the proceedings that all of these cases be consolidated for trial.

Mr. Goldschein: That is satisfactory. There is no objection to that.

The Court: Very well. So ordered.

This then will take Exhibit A for identification in the consolidated cases.

(The document referred to was marked Defendants' Exhibit A for identification.)



# COMMUNISM IN THE U.S.A.

*The first of a series on the Communist conspiracy and its influence  
in this country as a whole, on religion, on education,  
on labor and on our government*



Prepared and released by the

COMMITTEE ON UN-AMERICAN ACTIVITIES, U. S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D. C.

*Committee on Un-American Activities*  
*U. S. House of Representatives*



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John E. Rankin, *Mississippi*

J. Hardin Peterson, *Florida*

F. Edward Hébert, *Louisiana*



Robert E. Stripling, *Chief Investigator*

Benjamin Mandel, *Director of Research*



# 100 Things You Should Know About Communism in the U. S. A.

Forty years ago, Communism was just a plot in the minds of a very few peculiar people.

Today, Communism is a world force governing millions of the human race and threatening to govern all of it.

*Who are the Communists? How do they work? What do they want? What would they do to you?*

For the past 10 years your committee has studied these and other questions and now some positive answers can be made.

Some answers will shock the citizen who has not examined Communism closely. Most answers will infuriate the Communists.

These answers are given in five booklets, as follows:

1. One Hundred Things You Should Know About Communism in the U. S. A.
2. One Hundred Things You Should Know About Communism in Religion.
3. One Hundred Things You Should Know About Communism in Education.
4. One Hundred Things You Should Know About Communism in Labor.
5. One Hundred Things You Should Know About Communism in Government.

These booklets are intended to help you know a Communist when you hear him speak and when you see him work.

If you ever find yourself in open debate with a Communist the facts here given can be used to destroy his arguments completely and expose him as he is for all to see.

Every citizen owes himself and his family the truth about Communism because the world today is faced with a single choice: To go Communist or not to go Communist. Here are the facts.

## 1. *What is Communism?*

A system by which one small group seeks to rule the world.

*2. Has any nation ever gone Communist in a free election?*

No.

*3. Then how do the Communists try to get control?*

Legally or illegally, any way they can. Communism's first big victory was through bloody revolution. Every one since has been by military conquest, or internal corruption, or the threat of these.

CONSPIRACY is the basic method of Communism in countries it is trying to capture.

IRON FORCE is the basic method of Communism in countries it has already captured.

*4. What would happen if Communism should come into power in this country?*

Our capital would move from Washington to Moscow. Every man, woman, and child would come under Communist discipline.

*5. Would I be better off than I am now?*

No. And the next 17 answers show why.

*6. Could I belong to a union?*

Under Communism, all labor unions are run by the Government and the Communists run the Government. Unions couldn't help you get higher pay, shorter hours or better working conditions.

*They would only be used by the Communists to help keep you down.*

More complete details are given in ONE HUNDRED THINGS YOU SHOULD KNOW ABOUT COMMUNISM IN LABOR.

*7. Could I change my job?*

No, you would work where you are told, at what you are told, for wages fixed by the Government.

*8. Could I go to school?*

You could go to the kind of school the Communists tell you to, AND NOWHERE ELSE. You could go as long as they let you AND NO LONGER.

You could read ONLY what the Communists let you; hear only what they let you, and as far as they could manage, you would KNOW only what they let you.

For details, see ONE HUNDRED THINGS YOU SHOULD KNOW ABOUT COMMUNISM IN EDUCATION.

*9. Could I belong to the Elks, Rotary, or the American Legion?*

No. William Z. Foster, the head of the Communists in the United States, says:

Under the dictatorship all the capitalist parties—Republican, Democratic, Progressive, Socialist, etc.—will be liquidated, the Communist Party functioning alone as the Party of the toiling masses.

Likewise will be dissolved, all other organizations that are political props of the bourgeois rule, including chambers of commerce, employers' associations, Rotary Clubs, American Legion, YMCA, and such fraternal orders as the Masons, Odd Fellows, Elks, Knights of Columbus, etc.

*10. Could I own my own farm?*

No. Under Communism, the land is the property of the Government, and the Government is run by the Communists.

You would farm the land under orders and you could not make any decisions as to when or where you would sell the produce of your work, or for how much.

*11. Could I own my own home?*

No. Under Communism, all real estate in the city as well as the country belongs to the government, which is in turn run by the Communists.

Your living quarters would be assigned to you, and you would pay rent as ordered.

*12. What would happen to my insurance?*

The Communists would take it over.

*13. What would happen to my bank account?*

All above a small sum would be confiscated. The rest would be controlled for you.

*14. Could I leave any property to my family when I die?*

No, because you wouldn't have any to leave.

*15. Could I travel around the country as I please?*

No. You would have to get police permission for every move you make, if you could get it.

*16. Could I belong to a church?*

In Russia, the Communists have for thirty years tried every way they could to destroy religion.

Having failed that, they are now trying to USE religion from the inside and the same Party strategy is *now operating in the United States of America.*

See ONE HUNDRED THINGS YOU SHOULD KNOW ABOUT COMMUNISM IN RELIGION.

*17. Could I start up a business and hire people to work for me?*

To do so would be a crime for which you would be severely punished.

*18. Could I teach what I please with "academic freedom"?*

You would teach only what the Communists authorize you to teach.

You would be asking for jail or death to try anything else.

*19. Could I do scientific research free of governmental interference and restrictions?*

Police and spies would watch your every move. You would be liquidated on the slightest suspicion of doing ANYTHING contrary to orders.

*20. Could I have friends of my own choice as I do now?*

No, except those approved by the Communists in charge of your life from cradle to grave.

*21. Could I travel abroad or marry a foreigner?*

You could do nothing of that sort except with permission of the Communists.

*22. Could I exchange letters with friends in other countries?*

With the police reading your mail, you could try—once.

*23. Could I vote the Communists out of control?*

No. See ONE HUNDRED THINGS YOU SHOULD KNOW ABOUT COMMUNISM IN GOVERNMENT, showing the facts.



of Communist government in other countries and the facts of Communism at work within OUR OWN government.

*24. But doesn't Communism promise poor people a better life?*

Communist politicians all over the world try in every way to break down nations as they are, hoping that in the confusion they will be able to seize control.

*Promising more than you can deliver is an old trick in the history of the human race.*

Compare Communism's promises with Communism's performances in countries where it has come to power.

*25. What are some differences between Communist promise and Communist performance?*

When it is agitating for power, Communism promises more money for less work and security against war and poverty.

In practice, it has not delivered any of this, anywhere in the world.

*26. But don't the Communists promise an end to racial and religious intolerance?*

Yes, but in practice they have murdered millions for being religious and for belonging to a particular class. Your race would be no help to you under Communism.

Your beliefs could get you killed.

*27. Why shouldn't I turn Communist?*

You know what the United States is like today. If you want it exactly the opposite, you *should* turn Communist.

But before you do, remember you will lose your independence, your property, and your freedom of mind.

You will gain only a risky membership in a conspiracy which is ruthless, godless, and crushing upon all except a very few at the top.

*28. How many Communists are there in the world?*

There are 20,000,000 Communists, more or less, in a world of 2,295,125,000 people. In other words, about one person in 115 is a Communist, on a world basis.

*29. How many people are now ruled by Communism?*

About 200,000,000 directly; 200,000,000 more indirectly, and an additional 250,000,000 are under daily Communist pressure to surrender.

*30. Which countries are Communist controlled or governed?*

Albania, Bulgaria, Czechoslovakia, Estonia, Finland, Hungary, Latvia, Lithuania, Poland, Romania, Russia, Yugoslavia.

Important regions of Austria, Germany, Korea, Mongolia and Manchuria.

Communism is concentrating now on immediate capture of Afghanistan, China, France, Greece, Latin America, Iran and Palestine.

It has plans to seize every other country including the United States.

*31. How many Communists are there in the United States?*

There are approximately 80,000 out of a population of 145,340,000 people. J. Edgar Hoover has testified that "in 1917 when the Communists overthrew the Russian Government there was one Communist for every 2,277 persons in Russia. In the United States today there is one Communist for every 1,814 persons in the country."

*32. Why aren't there more?*

Because the Communist Party does not rely upon actual Party membership for its strength. J. Edgar Hoover testified:

"What is important is the claim of the Communists themselves that for every Party member there are ten others ready, willing, and able to do the Party's work. Herein lies the greatest menace of Communism.

"For these are the people who infiltrate and corrupt various spheres of American life. So rather than the size of the Communist Party the way to weigh its true importance is by testing its influence, its ability to infiltrate."

*33. How are they organized?*

Primarily around something they call a political party, behind which they operate a carefully trained force of spies, revolutionaries, and conspirators.

The basic fact to remember is that Communism is a world revolutionary movement and Communists are disciplined agents, operating under a plan of war.



34. *Where are their headquarters in the United States, and who is in charge?*

Headquarters are at 35 East Twelfth Street, New York City. William Z. Foster, of 1040 Melton Avenue, New York City, has the title of "Chairman of the Communist Party of the United States," but Foster is actually just a figurehead under control of foreign operatives unseen by and unknown to rank and file Communists.

35. *What is the emblem of the Communist Party in the United States?*

The hammer and sickle.

36. *What is the emblem of the Communist Party in the Soviet Union?*

The hammer and sickle.

It is also the official emblem of the Soviet Government.

37. *What is the flag of the Communist Party in the United States?*

The *red* flag, the same as that of all Communist Parties of the world.

38. *What is the official song of the Communist Party of the United States?*

*The Internationale*. Here is the Chorus:

*'Tis the final conflict,  
Let each stand in his place;  
The International Soviet shall be the human race.*

39. *Do the Communists pledge allegiance to the flag of the United States?*

The present head of the Communists in the United States has testified under oath that they DO NOT.

40. *What is the Communist Party set-up?*

At the bottom level are "shop and street units" composed of three or more Communists in a single factory, office, or neighborhood.

Next is the section which includes all units in a given area of a city. Then come districts, composed of one or more States.

At the top is the national organization, composed of a national committee and a number of commissions.

In the appendix of this pamphlet you will find listed the officers and address for each district of the Communist Party in the United States.

*41. Who can become a member of the Communist Party of the United States?*

Anybody over 17 years of age who can convince the Party that his first loyalty will be to the Soviet Union and that he is able to do the Party's work as a Soviet agent.

He must be an active member of a Party unit. He must obey ALL Party decisions. He must read the Party literature. He must pay dues regularly.

*42. How do you go about joining the Party?*

You must know some member in good standing who will vouch for you to his Party unit. Your acceptance still depends on the verdict of Party officials that you WILL AND CAN obey orders.

*43. Can you be a secret member?*

All Communists are secret members until authorized by the Party to reveal their connection. Party membership records are kept in code. Communists have a real name and a "Party name."

*44. Are meetings public like those of ordinary political parties?*

No, meetings are secret and at secret addresses. Records are all secret and in code. Public demonstrations are held at regular periods.

*45. What dues do you have to pay?*

They are adjusted according to income. They may range from as low as 2 cents a week to \$15 a week with special assessments in addition.

*46. What do you have to promise?*

To carry out Communist Party orders promptly. To submit without question to Party decisions and discipline.

To work for "The triumph of Soviet power in the United States."

*47. After you join, what do you have to do?*

You have to obey the Party in all things. It may tell you to change your home, your job, your husband, or wife. It may order you to lie, steal, rob, or to go out into the street and fight.

It claims the power to tell you what to think and what to do every day of your life.

When you become a Communist, you become a revolutionary agent under a discipline more strict than the United States Army, Navy, Marines, or Air Force have ever known.

*48. Why do people become Communists then?*

Basically, because they seek power and recognize the opportunities that Communism offers the unscrupulous.

But no matter *why* a particular person becomes a Communist, every member of the Party must be regarded the same way, as one seeking to overthrow the Government of the United States.

*49. What kind of people become Communists?*

The real center of power in Communism is within the professional classes.

Of course, a few poor people respond to the Communist claim that it is a "working class movement."

But taken as a whole the Party depends for its strength on the support it gets from teachers, preachers, actors, writers, union officials, doctors, lawyers, editors, businessmen, and even from millionaires.

*50. Can you quit being a Communist when you want to?*

The Communists regard themselves as being in a state of actual war against life as the majority of Americans want it.

Therefore, Party members who quit or fail to obey orders are looked on as traitors to the "class war" and they may expect to suffer accordingly when and as the Party gets around to them.

*51. How does the Communist Party of the United States work, day by day?*

The Communist Party of the United States works inside the law and the Constitution, and outside the law and the Constitution with intent to get control any way it can.

*52. What are some types of Communist activities within the law?*

Working their way into key positions in the schools, the churches,

the labor unions, and farm organizations. Inserting Communist propaganda into art, literature, and entertainment. Nominating or seeking control of candidates for public office. The immediate objective of the Communist Party is to confuse and divide the majority so that in a time of chaos they can seize control.

*53. What are some types of Communist activities outside the law?*

Spying, sabotage, passport fraud, perjury, counterfeiting, rioting, disloyalty in the Army, Navy and Air Force.

*54. What are some official newspapers or magazines of the Communist Party?*

Daily and Sunday Worker, 50 East Thirteenth Street, New York City; Morning Freiheit, 50 East Thirteenth Street, New York City; Daily Peoples World, 590 Folsom Street, San Francisco, Calif.; Masses and Mainstream, 832 Broadway, New York City; Political Affairs, 832 Broadway, New York City. There are also numerous foreign language publications.

*55. Does the Party also publish books and pamphlets?*

Yes, thousands of them, through such official publishing houses as: International Publishers, 381 Fourth Street, New York City; Workers Library Publishers, 832 Broadway, New York City; New Century Publishers, 832 Broadway, New York City.

*56. Does the Party have public speakers and press agents?*

Hundreds of them, paid and unpaid, public and secret, hired and volunteered, intentional and unintentional.

Publicity seeking is one of the Party's principal "legal" occupations, intended to confuse people on all important issues of the day.

*57. How does the Party get the money for all this?*

At first it received money from Moscow but now it raises millions of dollars here in the United States through dues, foundations, endowments, special drives, and appeals.

*58. Do only Communists carry out Communist work?*

No. The Party uses what it calls "*Fellow Travelers*" and "*Front Organizations*" in some of its most effective work.



*59. What is a fellow traveler?*

One who sympathizes with the Party's aims and serves the Party's purposes in one or more respects without actually holding a Party card.

*60. Is he important in the Communist movement?*

Vital. The fellow traveler is the **HOOK** with which the Party reaches out for funds and respectability and the **WEDGE** that it drives between people who try to move against it.

*61. What is a Communist front?*

An organization created or captured by the Communists to do the Party's work in special fields. The front organization is Communism's greatest weapon in this country today and takes its place it could never go otherwise—among people who would never willingly act as Party agents.

It is usually found hiding among groups devoted to idealistic activities. Here are 10 examples out of hundreds of Communist fronts which have been exposed:

1. American Committee for Protection of Foreign Born.
2. American Slav Congress.
3. American Youth for Democracy.
4. Civil Rights Congress.
5. Congress of American Women.
6. Council for Pan-American Democracy.
7. International Workers Order.
8. National Committee to Win the Peace.
9. People's Institute of Applied Religion.
10. League of American Writers.

*62. How can a Communist be identified?*

It is easy. Ask him to name ten things wrong with the United States. Then ask him to name two things wrong with Russia.

*His answers will show him up even to a child.*

Communists will denounce the President of the United States but *they will never denounce Stalin.*

*63. How can a fellow traveler be identified?*

Apply the same test as above and watch him defend Communists and Communism.

*64. How can a Communist front be identified?*

If you are ever in doubt, write, wire or telephone the House Committee on Un-American Activities, Room 226, House Office Building, Washington 25, D. C. Telephone National 3120, Extension 1405.

*65. What do Communists call those who criticize them?*

"Red baiters," "witch hunters," "Fascists." These are just three out of a tremendous stock of abusive labels Communists attempt to smear on anybody who challenges them.

*66. How do they smear labor opposition?*

As "scabs," "finks," "company stooges," and "labor spies."

*67. How do they smear public officials?*

As "reactionaries," "Wall Street tools," "Hitlerites," and "imperialists."

*68. What is their favorite escape when challenged on a point of fact?*

To accuse you of "dragging in a red herring," a distortion of an old folk saying that originally described the way to throw hounds off the track of a hot trail.

*69. What is the difference in fact between a Communist and a Fascist?*

None worth noticing.

*70. How do Communists get control of organizations in which the majority are not Communists?*

They work. *Others won't.*

They come early and stay late. *Others don't.*

They know how to run a meeting. *Others don't.*

They demand the floor. *Others won't.*

They do not hesitate to use physical violence or ANY form of persecution. They stay organized and prepared in advance of each meeting. The thing to remember is that Communists are trained agents under rigid discipline, but they can always be defeated by the facts.



*71. When was the Communist Party of the United States organized, and where?*

September 1919, at Chicago.

*72. Has it always been called by its present name?*

No. Here are the recorded, official name changes:

1919—Communist Party of America, and the Communist Labor Party of America.

1921—The above parties merged into the United Communist Party of America.

1922—The Communist Party of America and the Workers Party of America.

1925—The above merged into one organization known as Workers (Communist) Party of America.

1928—Communist Party of the United States.

1944—Communist Political Association.

1945 to present—Communist Party of the United States of America.

*73. Why has it changed its name so often?*

To serve Moscow and evade the law of the United States.

*74. Why isn't the Communist Party a political party just like the Democratic and Republican parties?*

Because it takes its orders from Moscow.

*75. Are the Communists agents of a foreign power?*

Yes. For full details write the Committee on Un-American Activities, Room 226, House Office Building, Washington 25, D. C., for House Report No. 209, entitled The Communist Party of the United States as an Agent of a Foreign Power.

*76. Where can a Communist be found in everyday American life?*

Look for him in your school, your labor union, your church, or your civic club. Communists themselves say that they can be found "on almost any conceivable battlefield for the human mind."

*77. What States have barred the Communist Party from the ballot?*

Alabama, Arkansas, Illinois, Kansas, Ohio, Oklahoma, Oregon, Tennessee, and Wisconsin.

*78. How does Communism expect to get power over the United States if it cannot win elections?*

The Communists only compete for votes to cover their fifth-column work behind a cloak of legality. They expect to get power by ANY means, just so they get it.

The examples of Poland, Czechoslovakia, and other countries in Europe show just how many methods Communism applies.

In each country different details—in all the same result.

*79. Why don't Communists over here go to Russia if they like that system so much?*

They are on duty here to take over this country. They couldn't go to Russia even if they wanted to, except on orders from Moscow.

*80. Which Communists get such orders?*

High Party officials and special agents who are to be trained in spying, sabotage, and detailed planning for capture of this country.

*81. Where are they trained in Moscow?*

The Lenin Institute, a college in revolution which teaches how to capture railroads, ships, radio stations, banks, telephone exchanges, newspapers, waterworks, power plants, and such things.

*82. Does Stalin let American Communists in to see him?*

Yes. Earl Browder and William Z. Foster, the two heads of the Party for the last 20 years, have both admitted under oath that they conferred with Stalin.

The records show that Browder, for instance, made 15 known trips to Moscow, several with false passports.

*83. Are American Communists used in the Soviet Secret Service?*

Yes, here are the names of a few such agents proved on the public records:

Nicholas Dozenberg, George Mink, Philip Aronberg, Charles Dirba, Pascal Cosgrove, J. Mindel, Alexander Trachtenberg, Julia Stuart Poyntz, Jack Johnstone, Charles Krumbein, and Albert Feirabend.

*84. What central organization controls all the Communist Parties of the world?*

An organization originally set up in Moscow by the Government of Russia, and known as the "Communist International" called *Comintern* for short.

It has since changed its name to "Communist Information Bureau" and is known as the *Cominform*.

85. *Who is the most important Communist in the United States today?*

The *Cominform* representative.

86. *Why is he here?*

To see that American Communists follow the orders of the Soviet-directed *Cominform* in all things.

87. *Do they?*

Yes.

88. *Has any representative of this central organization ever been caught?*

Yes. For example, over a period of 12 years one Gerhart Eisler, alias Brown, alias Edwards, alias Berger, did such work, making regular trips between the United States and Europe.

On February 6, 1947, his activities were exposed by the House Committee on Un-American Activities and he has since been convicted in court of perjury and contempt of Congress.

89. *What is the best way to combat Communism?*

Detection, exposure, and prosecution.

90. *Are these being done?*

Millions of dollars have been spent by the Federal Bureau of Investigation, Army and Navy Intelligence, and other executive agencies to detect and keep track of Communists since the Party's organization in this country a generation ago.

Exposure in a systematic way began with the formation of the House Committee on Un-American Activities, May 26, 1938.

Prosecution of Communists, as such, has never taken place in this country, as yet.

91. *Have any Communists been prosecuted on other grounds?*

Yes. For violations of such laws as those governing passports, immigration, perjury, criminal syndicalism, and contempt.

92. *Is this enough?*

No. The House of Representatives maintains this Committee on Un-American Activities to study the problems of Communism and all other subversive movements and recommend new laws if it feels they are needed.

93. *Has the Committee made any such recommendations?*

Yes. The latest is H. R. 5852, known as the Mundt-Nixon bill, which passed the House of Representatives on May 19, 1948, by a vote of 319 to 58.

94. *What does this bill do?*

The main points are:

To expose Communists and their fronts by requiring them to register publicly with the Attorney General and plainly label all their propaganda as their own.

To forbid Communists passports or Government jobs.

To make it illegal for ANYBODY to try to set up in this country a totalitarian dictatorship having ANY connection with a foreign power.

95. *What is Communism's greatest strength?*

Its secret appeal to the lust for power. Some people have a natural urge to dominate others in all things.

*Communism invites them to try.*

The money, hard work, conspiracy, and violence that go into Communism, add up to a powerful force moving in a straight line toward control of the world.

96. *What is Communism's greatest weakness?*

The very things that give it strength. For just as some people have a natural lust to dominate everybody else, so do most people have a natural determination to be free.

*Communism can dominate only by force.*



Communism can be stopped by driving every Communist out of the place where he can capture power.

*97. What is treason?*

Our Constitution says that "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court."

*98. Are the Communists committing treason today?*

The Soviet Union has launched what has been called a "cold war" on the United States. Therefore, Communists are engaged in what might be called "**COLD WAR TREASON.**"

The Mundt-Nixon bill is intended to fight this "cold war treason."

If our war with Communism should ever change from "cold" to "hot" we can expect the Communists of the United States to fight against the flag of this country openly.

*99. What should I do about all this?*

Know the facts. Stay on the alert. Work as hard against the Communists as they work against you.

*100. Where can I get information about Communism regularly?*

Write the House Committee on Un-American Activities, Room 226, Old House Office Building, Washington, D. C., for a selected list of official publications.

## APPENDIX

Principal officers and offices of the Communist Party, U. S. A., as of 1947.

### COMMUNIST PARTY, UNITED STATES OF AMERICA

National headquarters: 35 East Twelfth Street, New York, N. Y.

Chairman—William Z. Foster.

General secretary—Eugene Dennis (Waldron).

Administrative secretary—John Williamson.

Treasurer—Vacant since the death of Charles Krumbein.

National secretariat:

William Z. Foster.

Gil Green.

Eugene Dennis.

Gus Hall.

Robert Thompson.

Irving Potash.

John Williamson.

Jack Stachel.

Benjamin J. Davis, Jr.

Carl Winter.

John Gates.

Henry Winston.

National committee:

William Z. Foster.

Gus Hall.

Benjamin J. Davis, Jr.

Nat Cohen.

Rose Gaulden.

Ferdinand Smith.

Mickey Lima.

Abner Berry.

John Williamson.

Alexander Bittleman.

Nat Ganley.

Claudia Jones.

Bella Dodd.

Alexander Trachtenberg.

James Jackson.

David Davis.

Louis Weinstock.

Herb Signer.

William McKie.

Irving Potash.

Nat Ross (South).

Max Weiss.

Fred Blair.

Lem Harris.

Jack Stachel.

Hal Simon.

National review board:

Chairman—Ray Hansborough.

Vice chairman—Vacant since the death of Charles Krumbein.

Secretary—Saul Wellman.

William McKie.

National labor commission:

Chairman—John Williamson.

Secretary—William Albertson.

Administrative secretary—Robert Minor.

Al Blumberg.

Pat Toohey.



- National women's commission:  
 Chairman—Elizabeth Gurley Flynn.  
 Assistant secretary—Claudia Jones.
- National Negro commission:  
 Chairman—Josh Lawrence.  
 Secretary—Henry Winston.
- National group commission: Chairman—Steve Nelson.
- National farm commission:  
 Chairman—Max Weiss.  
 Secretary—Lem Harris.
- Organizing commission:  
 Secretary—Henry Winston.  
 Assistant Secretary—Betty Gannett.
- Coordinating Committee, National Maritime Field—Al Lannon.
- Jewish Commission:  
 Secretary—Moses Miller.  
 General Secretary—Alexander Bittleman.
- Veterans' commission:  

Director—John Gates.	Leon Straus.
George Blake.	Robert Thompson.
Joseph Clark.	Carl Vedro.
Louis Diskin.	George Watt.
Irving Goff.	Saul Wellman.
Howard Johnson.	Herbert Wheeldin.
Herbert Kurzer.	Henry Winston.
Carl Reinstein.	
- Student's commission: Director—Marion Shaw.
- Legislative commission:  
 Chairman—Arnold Johnson.  
 Secretary—Robert Minor.
- Educational Agit-Prop., and publicity commission:  
 Chairman—Jack Stachel.  
 Secretary—Max Weiss.

#### DISTRICT AND LOCAL OFFICIALS

*Northeast district, 80 Boylston Street, Boston, Mass.*

(States included: Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

- Chairman (district)—(Manny) Emanuel Blum.  
 Secretary (district)—Fanny Hartman.  
 Chairman (Massachusetts section)—Otis A. Hood.  
 Committee members for Massachusetts:  
 Jack Green.  
 Hy Gordon (trade union secretary, Massachusetts).

William E. Harrison.

Arthur E. Timpson (husband of Anna Durlak).

Joseph C. Figueiredo (Bristol organizer).

Organizer, Boston—F. Collier.

Secretary-treasurer (district)—Hugo Gregory.

Educational director, Massachusetts—Alice Gordon.

State (Massachusetts) campaign committee—Frances Hood (Mrs. Archer Hood).

Chairman, New Hampshire section—Elba Chase Nelson.

Labor secretary and Massachusetts organizer—Daniel Boone Schirmer.

Chairman (Maine)—Lewis Gordon.

*Eastern Pennsylvania-Delaware district, 250 South Broad Street,  
Philadelphia, Pa.*

(States included: Eastern Pennsylvania and Delaware)

Chairman (district)—Phil Bart.

Secretary (district)—Bob Klonsky.

Committee members:

Tom Nabried.

Bill McKane.

Estelle Shohen.

Jessie Schneiderman.

Carl Reeve.

Sam Donchin.

Jules Abercaugh.

John Devine.

Secretary, thirty-sixth ward (Philadelphia)—Bill Brockman.

Financial secretary (district)—Ben Weiss.

Organizer, Wilkes-Barre section—Joseph Dougher.

Organizer (district)—Sam Rosen.

Member, labor committee—David Davis.

*Western Pennsylvania district, 417 Grant Street, Pittsburgh, Pa.*

(Western Pennsylvania)

Chairman—Roy Hudson.

Secretary—Dave Grant.

Organizer—J. G. Eddy.

Chairman, Lawrenceville section—Matt Cortich.

Organizer, Lawrenceville section—Eleanor Sackter.

Organizer, Jones & Laughlin Club of Communist Party (Pittsburgh)—Sam Reed.

Youth organizer, Pittsburgh—Mike Hanusik.

Executive secretary (district)—Peter Edward Karpa.

Committee members:

Joe Godfrey.

Ben Careathers.

Elmer Kish.

Gabor Kist.

Dave Grant.

*Maryland-District of Columbia district, 210 West Franklin Street, Baltimore, Md., and 527 Ninth Street NW., Washington, D. C.*

(Maryland and Washington, D. C.)

Chairman (district)—Phil Frankfeld.  
Secretary (district)—Dorothy Blumberg.  
Chairman (District of Columbia section)—William Taylor.  
Vice chairman (District of Columbia section)—William S. Johnson.  
Secretary (District of Columbia section)—Elizabeth Searle.  
Treasurer (District of Columbia section)—Mary Stalcup.  
Literary director (District of Columbia section)—Casey Gurewitz.  
Cumberland organizer—Mel Fiske.  
Director, membership committee—Constance Jackson.

*District of Ohio, 2056 East Fourth Street, Cleveland, Ohio*

(State of Ohio)

Chairman—Gus Hall.  
Secretary—Martin Chancey.  
Organizing secretary—Frieda Katz.  
Organizer—A. Krchmarek.

Committee members:

Gus Hall.	Carl Guilood.
Abe Lewis.	Elmer Fehlhaber.
Edward Chaka.	Martin Chancey.
Bernard Marks.	Mike Davidow.
Robert Hamilton.	

Chairman, Cedar-Central section—Abe Lewis.  
Chairman, Cuyahoga County section—Gus Hall.  
Chairman, Cleveland County section—Elmer Fehlhaber.  
Secretary, Cleveland County section—Mike Davidow.  
Organizer, Toledo section—Nat Cohn.  
Organizer, Cincinnati section—Robert Gunkel.  
Organizer, Akron section—Bernard Marks.

*Minnesota, North Dakota, and South Dakota district, 1216 Nicollet Street, Minneapolis, Minn.*

(States included: Minnesota, North Dakota, and South Dakota)

Chairman (district)—Martin Mackie (Minnesota).  
Secretary (district)—Carl Ross.  
Assistant secretary (district)—Rose Tillotson.  
Chairman, Hennepin County section (Minnesota)—Robert J. Kelly.  
Secretary, Pine County, Minn., district—Clara Jorgensen.

*District of Indiana, 29 South Delaware Avenue, Indianapolis, Ind.*

(State of Indiana)

Chairman—Elmer Johnson.

Secretary—Henry Aron.

Legislative director, Indiana and Illinois—William Patterson.

Committee members:

Elmer Johnson.

Benjamin Cohen.

Morris Porterfield.

Imogene Johnson.

Sylira Aron.

*District of Michigan, 902 Lawyers Building, Detroit, Mich.*

(State of Michigan)

Chairman—Carl Winter.

Secretary—Helen Allison.

National committee representative—James Jackson.

Educational director—Abner Berry.

Youth director—Robert Cummings.

Daily Worker representative—Mabel Mitchell.

Organizer—Fred Williams.

Committee members:

Hugo Beiswenger.

Joe Brandt.

Geneva Olmsted.

Chairman, Ypsilanti, Willow Run section—Thomas Dennis.

Chairman, Flint section—Thomas Kelly.

Chairman, Hamtramck section—Thomas Dombrowski.

Secretary, New Haven—Joseph Gonzales, Jr.

State literature director—Byron Edwards.

Chairman, Flint—Berry Blossinghame.

Chairman, Michigan Avenue, Detroit section—John Hell.

*District of Illinois, 208 North Wells, Chicago, Ill.*

(States included: Illinois and Kentucky)

Chairman, Illinois section—Alfred Wagenknecht.

Chairman (district)—Gil Green.

Vice Chairman—William L. Patterson.

Assistant secretary—Victoria Kramer.

Legislative director, Illinois section—Edward Starr.

Labor secretary, Illinois section—Fred Fine.

Chairman, East Side Chicago section—Claude Lightfoot.

Section organizer—Jim Keller.

Organizer—Henry Davis.

Section organizer, Ninth Congressional District—Ethel Shapiro.

Organizer, South Chicago section—James Balanoff, Jr.

Chairman, twenty-eighth ward—Sylvia Woods.

Chairman, third ward—Ishmael Flory.

*District of New York, 35 East Twelfth Street, New York, N. Y.*

(State of New York)

Chairman—Robert Thompson.

Vice chairman—Rose Gaulden.

Organizing secretary—William Norman

Organizer—Donald MacKenzie Lester.

Director of education—William Weinstone.

Secretary of education—Sam Coleman.

Legislative director—Bella Dodd.

Farm organizer—George Cook.

Youth director—Lou Diskin.

Secretary, legislative committee—Lillian Gates.

Director, industrial section—Ben Gold.

Chairman, Negro committee—Charles Lohman.

Director, veterans' committee—John Gates.

Assistant director, veterans' committee—Howard Johnson.

Director, Daily Worker veterans' committee—Joe Clark.

Assistant organizational director—Charles Lohman.

Chairman, Communist Party Club, New York City—Leon Beverley.

Water front organizers—Tom Christensen and Al Rothbart.

Italian section organizer—Antonio Lombardo.

State secretariat:

Robert Thompson.

Israel Amter.

Hal Simon.

William Norman.

Committee members (in addition to above):

Nat Slutsky (section organizer).

Elwood Dean.

Michael Salerno.

George Watt.

Harlem section:

Chairman—Benjamin J. Davis, Jr.

Executive secretary—Robert Campbell.

Administrative secretary—John Lavin.

Industrial section director—Rose Gaulden.

Organizing director—Anselo Cruz.

Organizing secretary—Bonita Williams.

Educational director—Carl Dorfman.

Committee members:

Bob Campbell.

Carmen Lopez.

Bonita Williams.

Horace Marshall.

Rose Gaulden.

Benjamin J. Davis, Jr.

Larry Washington.

Sam Patterson.

Leon Love.

Maude White.



Cyril Phillips.  
Fern Owens.  
Theodore Bassett.  
John Lavin.

Letty Cohen.  
Herb Whiteman.  
Oscar James.

New York County section:

Executive secretary—George Blake Charney.

Membership director—Clara Lester.

Educational director—Rebecca Grecht.

Executive committee members:

James Tormey.

Louis Mitchell.

Howard Johnson.

Esther Cantor.

Tom Christensen.

Robert Campbell.

Ester Letz.

David Greene.

Evelyn Wiener.

Alvin Warren.

Queens County section:

Chairman—Paul Crosbie.

Organizer—Dave Rosenberg.

Secretary—James A. Burke.

Educational director—Helen Stuart.

Organizing secretary—Fay Collar.

Sectional organizer—Milton Goldstein.

Bronx section:

Chairman—Isidora Begun.

Organizing secretary—Bob Appel.

Press director—Bob Alpert.

Educational director—Robert Klonsky.

Assistant educational director—Henry Kuntzler.

King's County section:

Chairman, women's committee—Margaret Cowl (Krumbein).

Sectional organizer—Carl Vedro.

Press director—Mickey Langbert.

Essex County section: Chairman—Martha Stone.

Manhattan County section:

Executive secretary—George Charney.

Press director (industrial)—Al Reger.

Brooklyn section: Organizing secretary—John White.

Miscellaneous sections:

Chairman, Buffalo—Lloyd Kinsey.

Organizer, Buffalo—Nicholas Kosanovich.

Assistant to chairman, Buffalo—Norman Ross.

Chairman, Rochester—Gertrude Kowal.

Chairman, Syracuse—George Sheldrick.

Chairman, Utica—Murray Savage.

Chairman, Schenectady—Harold Klein.



Chairman, Binghamton—Irving Weissman.  
 Chairman, Yonkers—Edna Fried.  
 Chairman, Astoria, Long Island—Esther Signer.  
 Secretary, Nassau County—John Lavin.  
 Secretary, Coney Island—William Albertson.  
 Organizing secretary, eastern New York—Morris Smith.  
 Director, Nassau County—Jim Faber.  
 Chairman, Melrose—Joe Jackson.  
 Literature director, Middletown—Rose Walsh.  
 Organizing secretary, Williamsburg—Leon Nelson.  
 Organizer, Brownsville—Abe Osheroff.  
 Organizer, Nassau—Sam Faber.  
 Chairman, Westchester—Herbert L. Wheeldin.  
 Section organizer—Leon Nelson.  
 Press director, Bright Beach—Harry Klein.  
 Organizer, Morrisania—Morris Stillman.  
 Organizer, Allerton—Bernard Schuldiner.  
 Organizer, Parkchester—Sparky Friedman.  
 Organizer, Jamaica—Charles Evans.

*Northwest district, 1016½ Second Avenue, Seattle, Wash., and 916 East Hawthorne Street, Portland, Ore.*

(States included: Idaho, Oregon and Washington)

Chairman (district)—Henry Huff.  
 Labor secretary (district)—Andre Remes.  
 Secretary Pierce County section—Clara Sear.  
 Director, People's World, Seattle—Marx Blashko.

Committee members (in addition to above):

C. Van Lydegraf.

Edward Alexander.

Barbara Hartle.

Chairman, Spokane section—William L. Cumming.  
 Chairman, Oregon section—Ead Payne.  
 Secretary, Oregon section—Mark Haller.

*District of California, 942 Market Street, San Francisco, Calif.*

(State of California)

Chairman—William Schneiderman.  
 Organizing secretary—Loretta Starvis.  
 State treasurer—Anita Whitney.  
 State field organizer—Mickey Lima.  
 State educational director—Celeste Strack.  
 People's Daily World circulation director—Leo Baroway.  
 Chairman youth commission—George Kaye.

Chairman, Jewish commission—A. Olken.  
State press director—Ida Rothstein.  
State youth director—George Kaye.  
Labor secretaries—Archie Brown and Leon Kaplan.

Committee members:

John Pittman.	Loretta Starvis.
Louise Todd.	Nemmy Sparks.
Ray Thompson.	Clarence Tobey.
William Schneiderman.	George Lohr.
Pettis Perry.	Mickey Lima.

State political editor—Douglas Ward.  
Secretary, water-front section—Herbert Nugent.  
Los Angeles County section:  
Chairman—Nemmy Sparks.  
Labor secretary—Ben Dobbs.  
Press director—Elizabeth Ricardo.  
Chairman, minorities commission—Pettis Perry.  
Organizing secretary—Dorothy Healy.  
Editor, People's Daily World—Sidney Burke.  
Chairman Sixteenth Congressional District—Emil Freed.  
Section organizer—Alvin Averbuck.  
Legislative director—Harry Daniels.  
Harbor section organizer—Jim Forrest.  
Veterans' director—Merel Brodsky.  
Youth director—Phil Bock.  
Secretary, Carver Club section—Mort Newman.  
Candidate, board of education—La Rue McCormack.  
Candidate, councilman—Henry Steinberg—Ninth District.  
Candidate, councilman—James C. McGowan—Eleventh District.  
Candidate, councilman—Elsie M. Monjar—Eighth District.  
Director, West Adams Club of Communist Party—Joe Klein.  
Social activity secretary, 62 AD, Communist Party—Ida Elliott.  
Northern California section:

Chairman, San Francisco section—Oleta Yates.  
Legislative director, San Francisco section—Herb Nugent.  
Labor director, San Francisco—Leon Kaplan.  
Water-front organizer—Alex Freskin.  
Educational director, San Francisco—Aubrey Grossman.

San Diego County section: Chairman—Enos J. Baker.

Alameda County section:

Chairman—Lloyd Lehman.  
Labor director—Wesley Bodkin.  
Organizer, Ben Davis Club of Communist Party (Alameda)—Buddy Greer.  
Trade-union director, Harriet Tubman Club of Communist Party (Alameda)—Helen Bodkin.

Miscellaneous section:

President, Santa Monica Club of Communist Party—David Grant.  
Chairman, Contra Costa County—Mildred Bowen.  
Chairman, Hollywood section—John Stapp.  
Press director, East Side Youth Club (Los Angeles)—Libby Wilson.  
Organizer, North Oakland section—George Edwards.

*District of Arizona, 716½ North Washington Street, Phoenix, Ariz.*

(State of Arizona)

Chairman—Morris Graham.

Committee members:

Lewis Johnson.

Karl M. Wilson.

Chairman, Maricopa County—M. Dallen.

*District of New Jersey, 38 Park Place, Newark, N. J.*

(State of New Jersey)

Chairman—Sid Stein.

Organizing secretary—Larry Mahon.

Section organizer, Plainfield—Al Muniz.

Committee members:

Martha Stone (Scherer).

Tom Scanlon.

Irving Glassman.

Joseph Magliaco.

Elwood Dean.

Mrs. Gaetana Mahan.

*District of Connecticut, 231 Fairfield Avenue, Bridgeport, Conn.*

(State of Connecticut)

Chairman—Joe Roberts.

Secretary—Mike Russo.

Committee members (in addition to above):

Rudolph Gillespie.

Roy A. Leib.

Chairman, Hartford section—Roy A. Leib.

Chairman, New Haven section—Sidney S. Taylor.

*District of Wisconsin, 617 North Second Street, Milwaukee, Wis.*

(State of Wisconsin)

Chairman—Fred Blair.

Secretary—E. Eisenscher.

ate committee—Sigmund Eisenscher.

Chairman, Milwaukee section—G. Eisenscher.

Chairman, sixth ward—Joe Ellis.

Secretary, Milwaukee section—Clarence Blair (alias Clark).

Organizer, Milwaukee—James Phillips.

*District of Colorado, 929 Seventeenth Street, Denver, Colo.*

(States included: Colorado, New Mexico, and Wyoming)

Chairman—William Dietrich.

Secretary—Arthur W. Barry.

Organizational secretary—Tracy Rogers.

*District of Missouri, 1041 North Grand Street, St. Louis, Mo.*

(State of Missouri)

Chairman—Ralph Shaw.

Secretary—Nathan Oser.

*District of West Virginia, Charleston, W. Va.*

(State of West Virginia)

Chairman—Ted Allen.

*Southern District*

(States included: Texas, Louisiana, Florida, Georgia, Virginia, Alabama, Mississippi, Tennessee, Oklahoma, North Carolina, and South Carolina)

Chairman, Texas—Ruth Koenig, 305 Herman Building, Houston, Tex.

Executive secretary, Texas—James J. Green.

Chairman, Houston section—William C. Crawford.

Chairman, Louisiana—James E. Jackson, Jr.,

Secretary, Louisiana—Kay Davis, Godchaux Building, New Orleans, La.

Chairman, Florida-Georgia—Alex W. Trainor, 1546 Loma, Jacksonville, Fl.

Organization secretary, Florida-Georgia—Homer Chase.

Chairman, Virginia—Alice Burke, 102 North Eighth, Richmond, Va.

Chairman, Alabama-Mississippi-Tennessee—Harold Bolton.

Secretary, Alabama-Mississippi-Tennessee—Andy Brown.

Press director, Alabama-Mississippi-Tennessee—Harry Raymond.

Organizer, Alabama-Mississippi-Tennessee—Mary Southard.

Chairman, Oklahoma—Allen Shaw.

District organizer, Oklahoma—H. Smith, Oklahoma City, Okla.

Organizing secretary, Oklahoma—Al Lowe.

Organizing secretary, North and South Carolina—Sam Hall.

*District of Montana, 2117 Fourth Avenue South, Great Falls, Mont.*

(State of Montana)

Chairman—Ira Siebrasse.

*District of Nebraska, 415 Karback Building, Omaha, Nebr.*  
(State of Nebraska)

State chairman—Warren Batterson.

*District of Utah, 75 Southwest Temple Street, Salt Lake City, Utah*  
(State of Utah)

State chairman—Wallace Talbot.

State secretary—Joseph Douglas.

*"No Communist, no matter how many votes he should secure in a national election, could, even if he would, become President of the present government. When a Communist heads the government of the United States—and that day will come just as surely as the sun rises—the government will not be a capitalist government but a Soviet government, and behind this government will stand the Red army to enforce the dictatorship of the proletariat."*

Sworn statement of

WILLIAM Z. FOSTER

*Head of the Communist Party  
in the United States*



Mr. Margolis: I would like, your Honor, for the record to show the purpose for which that document is offered.

The Court: Go ahead.

Mr. Margolis: I would like to have the document before me at the time.

The Court: You only have one copy?

Mr. Margolis: I only have one, your Honor.

(The document referred to was passed to counsel.)

Mr. Margolis: We are offering this for the purpose not of establishing the truth of the statements made therein but [76] simply for the purpose of establishing the fact that an agency of the government of the United States has made these statements, this fact being offered to show the reasonable apprehension of danger to themselves on the part of these defendants.

In other words, that where a government agency makes the statements which points to the possibility of self-incrimination in a particular situation, the defendants are entitled, we believe, to rely upon those statements having been made as an indication of the danger.

Now there are 100 questions and answers here which I won't take the time to go into, but they indicate that in the opinion of a government agency, a committee of Congress, the Communist Party is an illegal organization.

Also there is an appendix attached to it, which

is a part of the document, and that appendix sets forth the principal officers and offices of the Communist Party, U. S. A., as of 1947, and it gives the Communist Party, United States of America, first, with the national headquarters, and then it gives various district and local information. Then on pages 25 and 26 there is what purports to be information, at least setting forth the belief and the information of this committee with respect to the District of California of the Communist Party of the United States of America, indicating among other things that Nemmy Sparks was a state committee member [77] and chairman of the Los Angeles Communist section, that Ben Dobbs was labor secretary, that Dorothy Healey was organizing secretary, that Alvin Averbuck was section organizer, that Harry Daniels was legislative director, that Merle Brodsky was veterans' director, that Phil Bock was youth director, that Mort Newman was secretary of the Carver Club section, that Henry Steinberg was candidate for councilman of the Ninth District—I am reading only the names of those people mentioned here who have been involved in any of these proceedings—indicating two things: (1) that the official agency of the government of the United States has information indicating that the Communist Party of Los Angeles County is a part of the Communist Party of the United States, and that many of the people involved in these proceedings are or were officers of that organization.

Now, your Honor, I have handed counsel another document.

The Court: I suppose I should say, while you are on this subject, in view of your statement, that it would also indicate to me as a judge that these witnesses called before the grand jury by virtue of this public information are persons who could be likely to give the information desired by the grand jury concerning the membership records of the Los Angeles County Committee of the Communist Party, or the Los Angeles County Communist Party, or however it happens to be designated. [78]

Mr. Margolis: That is not the issue we are raising, your Honor. We are not raising as a defense that they do not have the information. That could be answered by answering the questions.

The Court: I understand.

Mr. Margolis: Our defense is the possibility of self-incrimination.

Now I have handed counsel another document. Have you had opportunity to examine it?

Mr. Goldschein: No, sir.

Mr. Carter: I have looked it over.

Mr. Margolis: I have here a document which is a mimeographed copy of a press release dated June 15, 1949 issued by the Department of Justice in Washington, D. C., obtained from the Department of Justice in Washington, D. C., through official channels, that is, through regular channels of

getting regularly press releases from that organization, which press release is entitled, "Some Activities of the Department of Justice in the Field of Internal Security," and in order to state the purpose of this offer I want to refer to just a couple of short paragraphs in this press release.

Mr. Goldschein: Are we to understand that the court is to take judicial notice of this document that he is now attempting to get into the record? The previous one I understood was printed by the Government Printing Office. [79]

Mr. Margolis: Do you deny that this is a government press release?

Mr. Goldschein: I don't know anything about it. Are you testifying that it is, under oath?

Mr. Margolis: I can put on evidence to support it, your Honor. I can put on evidence to support the manner in which this was obtained, to show that this was obtained officially in the regular course from the Department of Justice as one of their press releases, that we were put on a mailing list to get their press releases, and in order that there may be no question about this I am perfectly willing to offer this subject to what is very often done where people want to get the truth in the record, to the right of the government to check, which they can very easily do, with Washington as to whether or not this is a press release which was issued by the Department of Justice in Washington or whether it is not.

The Court: Of course the person asserting the affirmative has the burden of establishing it. If you are asserting that that is a press release you have the burden of establishing it. I know that press releases are issued but I don't know what dignity they have in so far as evidence is concerned. I have seen a great many of them issued by various government departments which would not obtain a very dignified status.

Mr. Margolis: They may be dignified or undignified—and [80] I think this is a particularly undignified one, your Honor—but that isn't the point. The point I am making is that here is a press release and a statement of policy on the part of the Department of Justice which we contend establishes conclusively the danger to which these defendants would be exposed if they answered these questions—establishes it beyond any doubt.

The Court: Government counsel is objecting, and I take it the basis of their objection is that there is no foundation laid, from Mr. Goldschein's statement.

Mr. Goldschein: I don't know what it is. I never saw it until it was placed on the desk here.

Mr. Carter: It has not been offered in evidence yet. So far counsel is just starting to read from it. I suggest it be offered in evidence and the record show the objection and we can have some orderly process here.

The Court: Do you want to mark it for identification.

Mr. Margolis: Very well.

(The document referred to was marked Defendants' Exhibit B for identification.)

Mr. Margolis: If the government is going to challenge the foundation I will first request of this court that it do something which at least I have seen done very frequently in litigation, ask the government to verify whether or not that is a press release. It is a very simple thing for them to [81] do, and I think that the court should——

The Court: No, you are offering this and, like every other case, when counsel offers a document in writing they establish some kind of a foundation for it. The burden is not upon the other person to show that it is not a press release. You are offering it as a press release. Let us proceed in the orderly way, counsel.

Mr. Margolis: The witness whom I will use to establish the foundation is not in the courtroom at the moment, so I will pass on to another subject.

The Court: Do you wish a subpoena issued for him?

Mr. Margolis: No, it is not necessary.

The Court: Very well.

Mr. Margolis: Is Mr. Richard B. Hood in the courtroom?

Mr. Hood: Yes.



RICHARD B. HOOD

called as a witness by and in behalf of the defendants, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name, sir?

The Witness: Richard B. Hood.

The Clerk: Your address?

The Witness: 510 South Spring Street.

The Clerk: Take the stand, please. [82]

Direct Examination

By Mr. Margolis:

Q. What is your business or occupation, sir?

A. I am Special Agent in Charge of the Los Angeles Office of the Federal Bureau of Investigation.

Q. How long approximately have you held that position?      A. Nine years.

Q. In that capacity are you in charge of all investigating activities of the Federal Bureau of Investigation in the Los Angeles area, subject of course to your superiors in other areas?

A. I am in charge generally of all the activities of the office.

Q. And as the man in charge of the office, you work, do you not, very closely with the United States Attorney for this area, is that correct?

A. That is correct.

Q. And furnish him with whatever information you can obtain which would be helpful to him in any investigation which he has conducted, is that correct?

(Testimony of Richard B. Hood.)

A. That is not quite correct. He does not conduct the investigation.

Q. In any investigations which are being conducted by the grand jury but in which he participates as United States Attorney? [83]

A. Only those cases which are within the investigative jurisdiction of our Bureau.

Q. Do investigations concerning loyalty of government employees or concerning whether or not government employees have made false statements to the government fall within the jurisdiction of your Bureau?

A. Under the provisions of a Presidential order of the loyalty program, investigations are handled by the Federal Bureau of Investigation.

Q. Then your answer to my last question is "Yes," is it not, sir?      A. Yes.

Q. You are aware of the fact, are you not, that for the past several months the grand jury—I will withdraw that.

You are aware, are you not, of the fact that for the past several months a grand jury in this district, with the assistance of the United States Attorney, has been conducting an investigation with respect to whether or not certain government employees have made false statements and which has been entitled, Investigation of Loyalty of Government Employees?      A. Yes.

Q. Have you been asked to and have you—I will withdraw that.

(Testimony of Richard B. Hood.)

Have you been asked by the United States Attorney to furnish any information—without stating what that information [84] is—any information to him concerning the subject matter of that investigation?

Mr. Goldschein: I object to that, may it please the court, as being a general inquiry, that doesn't affect any fact in issue in this matter before the court.

The Court: That appears to be a preliminary question, whether or not he has been asked to furnish any information. Objection overruled.

The Witness: Yes.

Q. (By Mr. Margolis): And again without specifying what information you have furnished, have you, pursuant to such request, furnished information?

Mr. Goldschein: We object to that, may it please the court, as not being a fact in issue .

The Court: It is preliminary, I take it.

Mr. Margolis: It is, your Honor.

The Court: Objection overruled.

The Witness: Yes.

Q. (By Mr. Margolis): Now I am going to ask you some questions with respect to information which you furnished and so my questions will be entirely clear, Mr. Hood, I am not inquiring as to the specific information furnished but whether or not you furnished information of a particular character. In other [85] words, if I were to ask you,

(Testimony of Richard B. Hood.)

so it is clear, whether or not you furnished names, I am not asking for the names, I am asking just whether or not you did furnish names.

Now, Mr. Hood, have you furnished the United States Attorney information concerning the organizational structure of the Communist Party of Los Angeles County?

Mr. Goldschein: We object to that, may it please the court.

Mr. Carter: Let us make our objection more specific.

It is objected to upon the ground that it calls for information concerning the activities of the chief investigator for the Federal Government in this area, matters which he would know in his confidential knowledge and which he would not be required to disclose, therefore it is objected to on the ground that it is privileged.

Also objected to upon the further ground it is immaterial.

Mr. Margolis: I am not going to ask for the specific information furnished. I intend to ask a series of questions——

The Court: Let me hear the question again.

(The question referred to was read by the reporter as follows:

(“Q. Now, Mr. Hood, have you furnished the United States Attorney information concerning the organizational structure of the Communist Party of Los Angeles County?”) [86]

(Testimony of Richard B. Hood.)

The Court: Objection sustained.

Q. (By Mr. Margolis): Mr. Hood, have you furnished the United States Attorney with information as to who the officers of the Communist Party of Los Angeles County have been and are?

Mr. Goldschein: Same objection.

The Court: Objection sustained.

Q. (By Mr. Margolis): Mr. Hood, have you furnished the United States Attorney with information——

The Court: And a further ground on which I am sustaining it is that it is immaterial.

Mr. Margolis: I will start over again.

Q. Have you furnished the United States Attorney with information as to whether or not the Communist Party has clubs and how many clubs it has?

Mr. Goldschein: Same objection.

The Court: Same ruling.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether or not the Communist Party has divisions and how many divisions it has?

Mr. Goldschein: Same objection.

The Court: Objection sustained. [87]

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether the Communist Party of Los Angeles County is a part of the Communist Party of the United States?

(Testimony of Richard B. Hood.)

Mr. Goldschein: Same objection.

The Court: Same ruling.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to who is the chairman of the eastern division of the Los Angeles County Communist Party?

Mr. Goldschein: Same objection.

The Court: Objection sustained.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to who is the head of the southern division of the Los Angeles County Communist Party?

Mr. Goldschein: Same objection.

The Court: Sustained.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to who is the head of the youth division of the Los Angeles County Communist Party?

Mr. Goldschein: Same objection.

The Court: Sustained. [88]

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to who is the head of the student section of the youth division?

Mr. Goldschein: Same objection.

The Court: Objection sustained.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether or not each division has an organizer or chairman?



(Testimony of Richard B. Hood.)

Mr. Goldscheim: Same objection.

The Court: Objection sustained.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether each division has an organizational secretary?

Mr. Goldscheim: Same objection.

The Court: Same ruling.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether each division—and each of these questions have been directed to divisions of the Communist Party of Los Angeles County, and I believe it has been so understood?

The Court: Divisions, sections, etc. [89]

Q. (By Mr. Margolis): Whether each division has a membership or social secretary?

Mr. Goldscheim: Same objection.

The Court: Same ruling.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether the membership or social director of each division has a list of the membership of that division?

Mr. Goldscheim: Same objection.

The Court: Objection sustained.

Q. (By Mr. Margolis): Have you furnished the United States Attorney with information as to whether each division has a financial director?

Mr. Goldscheim: Same objection.

(Testimony of Richard B. Hood.)

The Court: Another ground upon which I am sustaining the objection is this: This is an inquiry by the grand jury. The grand jury are the ones who must be satisfied that there is a probability of a crime committed and what information the United States Attorney may have does not necessarily mean that it might be communicated in a legal way to the grand jury for them to act upon.

Mr. Margolis: It does go to the question of whether or [90] not this is an investigation which is being conducted for the bona fide purpose by the United States Department of Justice of getting information or is being conducted for the purpose of trying to send some people to jail because they refuse to incriminate themselves. I am offering it for that purpose and I have other material on that question, among other purposes. I am not limiting my offer to that purpose, however.

The Court: The statement which I just made will apply to the previous rulings which I have also made. I suppose it comes under the general head of immateriality. In other words, that it is wholly immaterial what the United States Attorney has, what information has been furnished to him, when the inquiry is by the grand jury.

Proceed.

Q. (By Mr. Margolis): Mr. Hood, have you furnished the United States Attorney with information as to whether the membership director or the financial director has the books and records of the Los Angeles County Communist Party?

(Testimony of Richard B. Hood.)

Mr. Goldschein: Same objection.

The Court: Same ruling.

Mr. Margolis: I have no further questions.

I would merely like to state, your Honor, that I expected to elicit from this witness answers which would indicate that [91] all of the information concerning which I asked him was furnished by the Federal Bureau of Investigation to the United States Attorney.

The Court: I cannot decide things on what somebody expected to elicit.

Mr. Margolis: I am saying that for the record, your Honor.

The Court: Are there any further questions of this witness?

Mr. Margolis: No further questions.

The Court: Cross-examine?

Mr. Carter: No cross-examination.

The Court: Witness excused.

(Witness excused.)

The Court: Next witness.

Mr. Margolis: The only thing I have, your Honor, is the witness I was going to put on in connection with that document, Mr. Wirin. He received the document and he can testify to its official character. He was supposed to be here this morning but apparently he stepped into another courtroom. I wonder if I might look for him?

The Court: Do you know Mr. Wirin, Mr. Brand?

The Bailiff: Yes, your Honor.

The Court: Will you see if you can find him?

Mr. Margolis: He left his brief case here so I don't [92] think he is very far away, but I don't know where he is.

The Court: Let me straighten this out, counsel.

I have here the four volumes of the transcript of record in the Court of Appeals, Nos. 12217 to 12221, in the matter of Kasinowitz, and they were offered merely for the convenience of the court at the last hearing, is that correct, or were they offered in evidence? I ordered everything in evidence that had previously been in these proceedings whether they were in the transcript of record or not.

Mr. Margolis: As I recall the situation, your Honor said that he can take judicial notice of what had happened before him and that I, under those circumstances, didn't care whether they were marked in evidence, for identification or what.

The Court: Very well. I just wanted to see that the record was straight on that.

Then if there is no objection I will keep these as a convenient form to refer to.

Mr. Margolis: There is no objection on my part, your Honor.

The Court: Very well.

Mr. Brand indicates that he is not in any of the other courtrooms here.

Mr. Margolis: I see it is almost noon, your Honor, and we won't finish. Perhaps we can take

our recess until 2:00 [93] o'clock now. Mr. Wirin had told me he was going to be here all morning.

The Court: That is the only other witness that you expect to have?

Mr. Margolis: That is the only other witness I have.

The Court: You have no other matters to present?

Mr. Margolis: Outside of argument, your Honor.

The Court: Very well. Recess to 2:00 o'clock.

(Whereupon, at 11:50 o'clock a.m., a recess was taken until 2:00 o'clock p.m. of the same date.) [94]

June 23, 1949; 2:00 o'Clock P.M.

The Court: Are there any ex parte matters?

The Clerk: No exparte, your Honor. Further trial.

The Court: The record will show the defendants are present in person and by counsel.

Proceed. You had a witness, Mr. Margolis?

Mr. Margolis: As I told your Honor, my witness is Mr. Wirin who was simply going to testify for the purpose of identifying this document. I found out over the noon hour what happened to Mr. Wirin. He became ill and he went home and he is at home ill.

Now I have one of two choices to make: I either may ask for a continuance to put on his testimony, because I arranged to have him here this morning,

he came here and the illness, due to no direct fault of the defendants or counsel; or I can state to the court and to counsel, if they are willing to accept it, what he would testify to. It is a very simple thing. It is not a very complicated thing I don't think it would require any cross-examination.

If your Honor would care to have me do that, I would be glad to do that, otherwise I must ask the court for a continuance.

Mr. Goldschein: Let us hear what it is.

Mr. Margolis: May I state it, your Honor? [95]

Mr. Goldschein: That was a request of the court. I am sorry. I should have arisen when I made it.

The Court: Proceed.

Mr. Margolis: Mr. Wirin would testify that some time ago he wrote to the Attorney General's office in Washington, D. C., and asked to be put on their regular mailing list for their press releases, that since that time he has received regularly from the office of the Attorney General various documents similar in makeup—although varying in content, of course—to the one which has been marked, I believe, B for identification here.

That he received this one from the Attorney General's office in an envelope indicating it came from the Attorney General's office in the usual course in which he had received other releases pursuant to his request, and that that is the document which he so received.

Mr. Goldschein: And that he got it when?



Mr. Margolis: I don't know the exact date on which he got it.

Mr. Goldschein: What is it dated?

Mr. Margolis: There is a date on there.

The Court: June 15, 1949. It has a mimeographed date at the top of the first page.

Mr. Margolis: I know it is very recent because he called it to my attention immediately after he got it, and [96] he called it to my attention just recently.

Mr. Goldschein: Here is another objection to the admissibility of that particular document. If it is dated June 15, Washington, D. C.—

The Court: No, it does not say "Washington, D. C."

Mr. Goldschein: It is dated the 15th, so it was evidently sent out sometime after that date, on or after that date. Certainly the witnesses knew nothing about it at the time they were ordered to appear before the grand jury and testify, and certainly there was nothing in that that could have frightened them since they knew nothing about it. There is no occurring danger from that record.

Mr. Carter: Let us do one thing at a time. We are willing to stipulate, for what it is worth, that if Mr. Wirin were called as a witness he would testify as stated by Mr. Margolis, reserving our right to make suitable objections.

Mr. Margolis: At this time, then, your Honor—is that acceptable, your Honor?

The Court: Yes.

Mr Margolis: At this time, your Honor, I then offer this document, and with respect to the statement made by Mr. Goldschein, I want to point out that the question is whether there is a reasonable basis for fear of incrimination.

We have all the way through claimed that it was the policy of the government to prosecute Communists because of the [97] fact that they were Communists or because of the fact that the government believed that they were Communists.

This release states that this case, this very case in this court, is part of the campaign against Communism, that this case is part of the government's campaign against Communism, something which we have been contending all along.

This also says—refers to the defendants in this case as alleged Communists, and to the fact that this is one of a series of Communist prosecutions.

Now it seems to me, your Honor, that this perfectly demonstrates that what we are saying and have been saying all along about the policy of the Department of Justice to prosecute people because they are or are believed to be Communists. It is actually the policy as set forth in this release or at least that the fact has been declared to be their policy, it is still their policy, as of the time of this trial and this very proceeding in and of itself is a part of the government's policy of prosecuting people because they are believed to be Communists.

I say that this document demonstrates that, your Honor, and that therefore it is not only material but it is evidence right out of the mouth of the government to sustain the contentions which the defendants have been making throughout in these proceedings.

Mr. Carter: We object to its admissibility on the ground [98] that it is immaterial to any of the issues in the case; on the further ground that the document is not signed by the Attorney General, nor by any person. It is a mimeographed sheet. It possibly could have been some sort of a handout, some public relations man's idea of his interpretation of certain things that had happened. It is certainly not competent evidence as being any expression of the Attorney General. It doesn't tend to prove or disprove any of the issues in this case.

A further ground, the very date of the document shows that it was dated after the time when the witnesses involved here refused to answer questions and after they had been ordered to answer them.

The Court: Let me read it.

(The document referred to was passed to the court)

The Court: I think that probably the objection would go more to its weight than to its admissibility. The testimony of Mr. Wirin, if given to that effect, would have warranted the inference that he did receive it from somebody in the Department of Justice. It is not signed. There is no indication that

this is the viewpoint of the Attorney General of the United States, nor of the particular head of the Department charged with the enforcement of criminal laws.

In any event, the document will be admitted into evidence. [99]

(The document referred to was marked Defendants' Exhibit B and received in evidence.)

### DEFENDANTS' EXHIBIT B

June 15, 1949

#### Some Activities of the Department of Justice in the Field of Internal Security

The activity of the Department of Justice against communist subversion has struck through action in the Federal courts, through deportation proceedings, and through such legislation as the Alien Registration Act and the Foreign Agents Registration Act. The program functioned administratively inside the government through President Truman's Government Employee Loyalty procedure, which ferreted out any disloyal government employees.

Prosecution action in the courts against communists in the United States was as follows:

Eleven top-flight communists are now on trial before a jury and Judge Harold R. Medina in the Federal Court for the Southern District of New York. Charged with conspiracy to overthrow the Government of the United States by force and violence they are: Benjamin J. Davis, Jr., New York

## Defendants' Exhibit B—(Continued)

City Councilman; John Williamson, Eugene Dennis, the party's general secretary; Jack Stachel, educational director; John Gates, editor, *The Daily Worker*; Gus Hall, Chairman, Ohio Communist Party; Gilbert Green, Carl Winter, Robert Thompson, Harry Winston, Irving Potash.

All are members of the Communist National Board which is the party's high policy making politbureau.

William Z. Foster, head of the Communist Party, is under indictment with his eleven comrades, but has been declared too sick to undergo trial at this time.

Thirty-four alleged communists have been convicted in Washington for contempt of Congress.

Twenty-nine of them are out on bond, appeals to the higher court pending. Five paid fines of \$500.00 each and received suspended sentences. Seventeen of them were members of the Barsky Antifascist Refugee Committee, 10 were Hollywood script writers.

Sixteen alleged communists have been convicted in California on charges of civil contempt for refusing to testify before a Federal Grand Jury. Fifteen are out on bond, pending appeal to higher courts, and one was fined and paid \$2500 for refusing to answer subpoena, thereby obstructing justice. He will be summoned to appear before the Grand Jury again. Conviction of 10 of these 16 has been affirmed by the 9th Circuit Court of



## Defendants' Exhibit B—(Continued)

Appeals in San Francisco. The appeals of the other 5 to the Circuit Court are pending.

Seven alleged communists were convicted in Denver, Colorado, on charges of contempt for refusing to testify before the Federal Grand Jury in connection with the investigation of the alleged disloyalty of a government employee. They are out on bond pending an appeal to the Circuit Court.

The Department of Justice struck at communist disloyalty and subversion among government employees through the President's Employee Loyalty Program launched on March 21, 1947. The FBI checked over 2,471,000 incumbent and appointee forms. Of these 8,708 were set aside because of derogatory information for full field investigations, 5,459 being incumbents and 3,249 appointees. This is one third of one per cent. Director J. Edgar Hoover, of the FBI, reported that since the inception of the Loyalty Program 2,462,013 employee loyalty forms marked "No Disloyal Data" have been returned to the Civil Service Commission for transmittal to the employing agencies, an extraordinary evidence of the overwhelming high proportion of government employee loyalty.

Of those government employees under investigation some left the service while the investigation was under way. Others were found ineligible to continue on the government payroll and were dismissed. Some are being prosecuted for giving false statements to the FBI.



Defendants' Exhibit B—(Continued)

As the result of the President's Loyalty Program sufficient evidence to warrant prosecution in the federal courts was found against seven federal employees.

These cases are:

Carl Marzani, Department of State employee, convicted of giving false statement in connection with his employment, and now serving a jail sentence of from one to three years, his case having been carried to the Supreme Court which sustained his conviction.

Verne Wasley Howard, employed by the Government as an aircraft mechanic at Lowry Field Army Air Base, Denver, Colorado. He pleaded guilty to making false statements to the FBI about his membership in the Communist Party, and was sentenced to six months in jail.

Now under indictment and awaiting trial for allegedly making false statements in connection with their employment are:

Bertram Schaeffer, a postal clerk, indicted in Philadelphia.

Rafael Baroana, Agriculture Department employee, indicted in San Francisco.

Robert Edgar Himmaugh, Department of Commerce employee, indicted in New Orleans.

Alger Hiss, former State Department employee, has been indicted for perjury in New York City and now on trial on evidence growing out of the Federal Grand Jury investigation.

## Defendants' Exhibit B—(Continued)

Judith Coplon, Department of Justice employee, has been indicted and is now on trial in the District of Columbia for espionage and for taking government documents, and is scheduled to go on trial in New York for conspiracy to commit espionage and other charges.

The most recent action by the Department of Justice was taken against Harry Renton Bridges, Henry Schmidt and J. R. Robertson, in San Francisco, where a Federal Grand Jury returned a criminal indictment against them. Bridges is alleged to have fraudulently denied he was a member of the Communist party when he sought naturalization as a citizen of the United States. Schmidt and Robertson are alleged to have testified falsely in support of Bridges' petition knowing of his communist affiliations. The United States Attorney in San Francisco also filed a civil suit against Bridges for the purpose of revoking and setting aside the order which admitted him to citizenship and cancelling his certificate of naturalization on the ground of fraud.

In addition to prosecutive action, the Department of Justice has for several years been carrying out deportation proceedings against aliens suspected of subversive tendencies.

As of April 15, 1949, there were 3,278 undesirable aliens in the United States, most of them communists who cannot be deported to the countries of their nationality because of passport refusals of

## Defendants' Exhibit B—(Continued)

their own government. Of this number 2,147 are deportable to countries behind the iron curtain. Of the latter group 2,079 entered the United States prior to 1933. All the top-notch communists came into the United States before the first administration of Franklin Delano Roosevelt, arriving during the Harding, Coolidge or Hoover periods. Now under President Truman they are being shipped back as fast as law and visa conditions permit. Some have been deported. Gerhardt Eisler fled. Others deported by stipulation, and still others are to go within the next few weeks.

Alexander Stevens, alias J. Peters, who recently flew to Hungary following the issuance of a deportation warrant, and who was described by the 80th Congress House Un-American Committee as "the brains of the entire communist underground in the United States" was allowed to enter the country in 1925 during the Coolidge regime. He left, and was allowed to return in 1928 under the Hoover administration. Other high command communists who entered the country during the 20's and up to 1933 were: Claudia Jones, member of Young Communist League, State Educational Director and State Chairman of the National Council of the Young Communist League, and also member of International Committee Communist Party, entered in 1924; Alexander Bittleman, member of National Committee of Communist Party and active writer on behalf of Communist Party entered in 1912 when

## Defendants' Exhibit B—(Continued)

Taft was President, left and came back again in 1931 under the Hoover administration; Charles A. Doyle, active member of Communist Party, entered in 1923; John Santo, who was ordered deported and left the country on June 10, 1949, long member of Communist Party, entered in 1927 during the Coolidge days; Jack Stachel, National Board Member and Educational Director of the Communist Party, entered in 1931, when Hoover was President.

Sixty-eight undesirables entered between 1933 and 1945, and none has entered since Attorney General Clark assumed his post. In addition to the deportation cases as of March 31, 1949, Attorney General Clark had under investigation the cases of 389 naturalized citizens for the purpose of determining whether steps should be taken to cancel or revoke such citizenship because of suspected subversive activities. At the present time the Attorney General has under investigation through the immigration service looking to deportation or under actual deportation proceedings the cases of 833 aliens who, *prime facie*, are deportable under the Act of October 16, 1918, as amended.

On February 5, 1948, the Attorney General recommended legislation to the House Un-American Activities Committee so that deportable aliens might be detained in custody while they negotiate for documents for entree into countries willing to receive them. He also asked for amendments to the Foreign Agents Registration Act, the Voorhis Act,

## Defendants' Exhibit B—(Continued)

The Smith Act and the Alien Registration Law. But the 80th Congress failed to act. There is now before the 81st Congress a bill which, if enacted into law, would go far to correct this situation. Attorney General Clark advised the Committee that such a plan would also give the Department of Justice an opportunity to curb their activities.

Among the notorious deportees and others obliged to leave the country were: William Bigelow, a Canadian, March 30, 1948; Emil Gardos, a Rumanian, April 1948; Badrig Selian, a Russian, May 18, 1948; Hans Eisler and Sam Carr departed on March 26, 1948 and February 11, 1949, respectively; John Santo of the Transport Workers Union, June 10, 1949. Other communists ordered to leave the country and who are scheduled to depart in a few days are: Ferdinand T. Smith of Jamaica; Cando Dimitroff, a Bulgarian; and Gustav Johnson of Sweden.

The record discloses deportation proceedings brought by the Department of Justice against prominent communists as far back as 1933 when the Roosevelt Administration came into office. There were twenty-five cases in which important communists were prosecuted for offenses against the United States. Most of these prosecutions have been for passport violations or other by-product offenses arising out of Communist activities, these being the only cases provable against them. Among the twenty-five may be named Charles Krumbein, one time New York State Secretary of the Com-



## Defendants' Exhibit B—(Continued)

munist Party and member of the Political Committee of the Communist Party U.S.A.; Nicholas Dozenberg, Mikhail N. Gorin, Welwel Warzower, who is also and better known as Robert William Weiner, one time head of the International Workers Order and member of the Communist Party National Committee; Philip J. Jaffee, Allen E. Blumberg, and Earl Browder, the then top man of the party in the United States.

In addition the Attorney General, after an exhaustive and thorough investigation, has listed a total of 159 organizations in the United States as hostile and inimical to our government and our way of life.

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The Court: Proceed.

Mr. Margolis: The defendants rest.

The Court: Rebuttal?

Mr. Goldscheim: None, may it please the court.

The Court: The government rests?

Mr. Carter: The government rests.

The Court: Very well. [100]

\* \* \*

The Court: I think that is about as broad as any statement of immunity can be made, if that is your point, that it [106] is not broad enough.

Mr. Margolis: That is one point, your Honor, and I want to state again, if your Honor will look at the Counselman case and the Brown case once



## Defendants' Exhibit B—(Continued)

more, your Honor will find that the immunity must be against prosecution concerning the subject matter of the testimony, not as the result of anything which the testimony will lead to.

The Court: I do not see how he could have said it any clearer.

Mr. Margolis: What he could have said is, that you are going to be asked to testify concerning the subject, that you cannot be prosecuted with respect to the subject concerning which you testify. You simply cannot be prosecuted with respect to that subject, and the immunity we ask has to be so broad that even if they obtain the lead from some other place, other than this defendant, there can be no prosecution. That is what the cases hold, and some of the earlier statutes which didn't go that far were held to be insufficient.

However, whether or not your Honor holds——

Mr. Goldschein: May I interrupt just a moment, please, sir?

May it please the court, so that the court will understand exactly what it was intended to do, that was the exact intent and purpose of the offer, that the witness would not be prosecuted. [107]

The Court: I understand the language. It seems to me that it is as broad as it could be made.

Mr. Margolis: I assume that this is not an addition to the record, that this is merely a statement of counsel.

The Court: In explanation of what he intended to say, but the words stand by themselves.

It seems to me that they are as broad as they can be made. You cannot offer anybody immunity from every possible crime which he might have committed in the past or which he might commit in the future.

Mr. Margolis: But you can offer them immunity from being prosecuted concerning the subject on which they testify.

The Court: I think his offer is broad enough for that.

Mr. Goldschein: And in addition, may it please the court, if there was any misunderstanding about that question and the witness now wants to take the witness stand in this court, with permission of the court, and testify to the facts that she refused to answer before the grand jury, and will answer all questions, the offer still stands good.

The Court: As to the subject matter?

Mr. Goldschein: As to the subject matter.

The Court: Go ahead.

Mr. Carter: Or to testify before the grand jury, to signify intention to testify before the grand jury, if they didn't want to testify publicly in court.

The Court: I have pending before me these criminal informations. I take it that your offer of immunity now means that in the event that the witness—is that made to each one of these witnesses?

Mr. Carter: It is made to each witness and in substance the offer is this: If there has been any misunderstanding on the part of the witness and the witness signifies his intention of appearing be-

fore the grand jury and answering these questions based upon the offer of immunity, the United States Attorney would move this court, subject to the court's approval, to terminate these proceedings on contempt.

The Court: To dismiss them?

Mr. Carter: To dismiss the contempt, so we will have the record clear as to what our intention was.

The Court: Do you understand it now, Mr. Margolis?

Mr. Margolis: I understand what they are saying, but I don't think it changes the situation any.

The Court: Do you wish an opportunity to confer with your clients at this time?

Mr. Margolis: No, your Honor. I merely desire to go on with my argument.

The Court: They are the ones who are involved. I think that I should give you an opportunity to speak to each one of them.

Mr. Margolis: I want to say this, your Honor, that I [109] would advise them against this in any event.

The Court: I do not want you to tell me what you are going to advise them. You can tell me afterwards.

Mr. Margolis: It is a useless thing, your Honor.

The Court: Mr. Margolis, you have been standing at the lectern, your clients have been sitting at the table, you have not had an opportunity to speak to them since the statement of the offer made by the United States Attorney, and they have not had an opportunity to communicate with you. So I

do not see how anybody can state it is a useless thing.

I will give you an opportunity to consult with them privately. I will make a room available for you. [110]

\* \* \*

June 24, 1949; 10:00 o'Clock A.M.

(Other court matters.)

The Court: In the matter of Cases Nos. 20743, 20744, 20745, 20746 and 20747, United States v. Appelman, Averbuck, Greenfield, Healey and Newman, the defendants are all present in person as well as by counsel.

Yesterday evening when we were discussing just at adjournment and prior to it the various executive orders, with the aid of the United States Attorney's office who apparently came to the court with a number of the documents, I have gathered them together. I have had photostats made of all those and I have the black photostats and will furnish to each counsel—they should be finished shortly—white photostats of each of these documents which I will now enumerate, and of course of which I can take judicial notice but which, for the purpose of the record, it may be well at this point to indicate what they are.

The first one is Executive Order 9300, published in 8 Federal Register 1701, promulgated by President Roosevelt on February 5, 1943, and entitled, "Establishing the Interdepartmental Committee to Consider Cases of Subversive Activity on the Part of Federal Employees."

The next one is Executive Order 9806, published in 11 F. R. 13863, promulgated November 25, 1946, by Harry S. Truman, [141] President of the United States, and entitled, "Establishing the President's Temporary Commission on Employee Loyalty."

The next one is Presidential Directive Published in 13 F. R. 1359, promulgated on March 13, 1948, by Mr. Truman, the President, and entitled, "Confidential Status of Employee Loyalty Records, Memorandum to All Officers and Employees in the Executive Branch of the Government."

The next one in point of time is a report of the Loyalty Review Board filed March 19, 1948, 8:54 a.m., and signed "The Loyalty Review Board, United States Civil Service Commission, Seth W. Richardson, Chairman," published in Volume 13, No. 56, pages 1471 to 1473 of the Federal Register of March 20, 1948.

Immediately following that, Executive Order No. 9835, published in 12 F. R. 1935 was promulgated by President Truman on March 21, 1947. Incidentally, it indicates that Executive Order No. 9800 of February 5, 1943, is hereby revoked. That was the previous executive order mentioned.

The title of Executive Order No. 9835 is, "Prescribing Procedures for the Administration of an Employees Loyalty Program in the Executive Branch of the Government."

The next in point of time is found in the Federal Register Volume 13, No. 206, published October 21,



1948, pages 6135, 6136, 6137 and 6138. It is entitled: "Title 5, Administrative Personnel, Chapter II, The Loyalty Review [142] Board, Part 210, The Operations of the Loyalty Review Board," and is signed by that board of the United States Civil Service Commission by Seth W. Richardson, Chairman, and was filed with the Federal Register October 20, 1948.

And the last one is found in Volume 14, No. 88, of the Federal Register at pages 2369 to 2371 and 2372, of the Federal Register published Saturday, May 7, 1949. It is entitled: "Title 5, Administrative Personnel, Chapter II, The Loyalty Review Board, Part 200, Statement of the Loyalty Review Board, Part 210, The Operations of the Loyalty Review Board, Part 220, Directives to Departments and Agencies; Cases of Incumbent and Excepted Employees and Excepted Applicants, Part 230, Directives to Regional Loyalty Boards; Cases of Applicants and Appointees in the Competitive Service," and is signed by The Loyalty Board, United States Civil Service Commission, Seth W. Richardson, Chairman, and was filed with the Federal Register May 6, 1949.

Incidentally, I have examined those.

You may proceed. [143]

\* \* \*

The Court: Is there any legal reason why sentence should not be pronounced?

Mr. Margolis: None other than those that have been previously stated.



The Court: Mr. Appelman, it is the judgment and sentence of the court that you be committed to the custody of the Attorney General for the period of one year. You will stand committed. [248]

\* \* \*

Is there any legal reason why sentence should not be pronounced?

Mr. Margolis: None, your Honor, other than those stated.

The Court: It is the judgment and sentence of the court, Mr. Averbuck, that you be fined the sum of \$10, and you will stand committed until paid.

\* \* \*

Is there any legal reason why sentence should not be pronounced?

Mr. Margolis: None other than that which has previously been stated, your Honor.

The Court: Mr. Greenfield, I am almost your age and it is a little difficult sitting here on this side of the bench to pass sentence in judgment upon some one of my own generation on the other side. But after all I have my oath and you have your beliefs. You are following your beliefs and I [264] am following my oath. I found you guilty of contempt and I cannot do anything else than to treat you just the same as everybody else.

It is therefore the judgment and sentence of the court that you be committed to the custody of the Attorney General for the period of one year. The defendant will stand committed. [265]

\* \* \*

Mr. Margolis: In the matter of United States v.

Alvin Abram Averbuck, No. 20744, during the recess I went into the Clerks' office and deposited \$10 which I ask be kept in the registry in order that the payment of this money not defeat the right to prosecute an appeal. I have the receipt here, your Honor, showing the deposit of \$10 and I ask that upon that basis that at this point Mr. Averbuck be released pending appeal.

The Court: The \$10 was deposited in the registry as against the final execution for the fine?

Mr. Margolis: That is right, your Honor.

The Court: Mr. Averbuck is discharged. [266]

\* \* \*

The Court: Any legal reason why sentence should not be pronounced?

Mr. Margolis: None other than that which has previously been stated.

The Court: It is the judgment and sentence of the court that the defendant Newman be committed to the custody of the Attorney General for one year. He will stand committed. [278]

\* \* \*

Mrs. Healey, you have been found guilty of contempt as charged in the indictment for refusal to answer the questions, and I have heretofore indicated that your contempt consists not only of refusal to answer all questions, but each question.

Now is the time for sentence, and if you have some statement to make—and I have seen you sitting there anxiously waving a paper so I guess you have some statement to make.

The Defendant Healey: "I am about to be sentenced——

The Court: Are you reading?

The Defendant Healey: I am reading it.

The Court: Very well.

The Defendant Healey: "as a criminal by this sovereign court of the United States.

"Not for any act, criminal or otherwise, which I have committed. Not for any word that I have spoken.

"I stand here charged and convicted, solely because I have refused to be a party to denial of my own constitutional rights.

"When, under the guarantees of the Fifth Amendment to the Constitution, I refused to answer questions that might incriminate me, I was mindful of the political atmosphere in our country today.

"I was fully aware of the powerful forces that are using such men as Mr. Carter to whip up the most hysterical witch-hunt in our country's history.

"In the process of that witch-hunt, precious traditions are being destroyed. Working men and women in factories, educators in their classrooms, scientists in their laboratories are the hourly victims of the hysteria which Mr. Carters all over the country obediently are whipping into a fury.

"Nor is the end product which is designed to come out of this witch-hunt any more obscure than are the real purposes of the U. S. Attorney.

“Powerful masters of monopoly, by desperate means, seek to force upon every American servile acceptance of an ideology truly foreign to the traditions of the American people—the ideology of Fascism.”

Your Honor quoted Mark Twain here earlier, but I would like to quote another statement from Mark Twain which I think is probably more pertinent to the issues before our entire [280] country today. In his book “A Connecticut Yankee in King Arthur’s Court,” he gave an American answer to the question of loyalty, and I quote:

“‘You see, my kind of loyalty was loyalty to one’s country, not to its institutions or its office-holders. The country is the real thing, the substantial thing, the eternal thing; it is the thing to watch over, and care for, and be loyal to; institutions are extraneous, they are its mere clothing, and clothing can wear out, become ragged, cease to be comfortable, cease to protect the body from winter, disease and death.

“‘To be loyal to rags, to worship rags, to die for rags—that is a loyalty to unreason; it is pure animal; it belongs to a monarchy, was invented by monarchy: let monarchy keep it. I was from Connecticut, whose constitution declares “that all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and that they have at all times an undeniable and indefeasible right to alter their form of government in such a manner as they may think expedient”.’”

That is the end of the quote.

The Court: Are you trying to alter it now by your refusal [281] to answer these questions?

The Defendant Healey: I don't think so. I am trying to uphold the Constitution.

The Court: Is that your point?

The Defendant Healey: Obviously not, your Honor.

The Court: Very well. Then go ahead.

The Defendant Healey: "Monopoly capital seeks to supplant the guarantees of the Constitution with their doctrine that loyalty to country means abject loyalty to the greed and exploitation of their monopolistic ends.

"They would permit the educator and the scientist——"

The Court: Who is "they"?

The Defendant Healey: Monopoly capital, and I would be glad to enumerate some of those institutions in this country.

The Court: Go ahead. Are they people?

The Defendant Healey: American people, although the people, as Mr. Newman pointed out, are unimportant, they are important in so far as they represent entrapped capital in this country.

The Court: Go ahead.

The Defendant Healey: Chase National Bank, Dillon, Reed & Company.

The Court: Who are the people? [282]

The Defendant Healey: I think maybe your Honor will remember that only just recently an

associate of Dillon, Reed & Company was part of the Cabinet in the United States Government and probably everybody here remembers that it was during his policies there, which were not any different from the policies of the Truman bipartisan plank that Mr. Forrestal reigned there, as he did during the period of the war when he represented Dillon, Reed & Company's investments.

General Motors, General Electric—I think probably, your Honor, that it would be a great pleasure to be able to provide for your Honor in more detail form than I am prepared to do here this morning, a tabulated list, not only of the corporations, a very small number of whom control the most tremendous wealth of this country, but the individuals who help to develop the policies of those corporations.

The Court: You shall have the opportunity.

The Defendant Healey: May I?

The Court: You shall.

The Defendant Healey: I will be delighted to do so.

The Court: You shall have the opportunity to have that delight.

The Defendant Healey: Thank you.

“They would permit the educator and the scientist to explore only those ideas and concepts that would be safe for the preservation of their financial oligarchies and industrial cartels.” [283]

The Court: When you say “they,” you are speaking about those same “theys”?

The Defendant Healey: I am still speaking of



the most dangerous and most powerful forces in history.

The Court: You speak about "they"?

The Defendant Healey: That is right, "they," the monopolists.

The Court: After all, you see you are up here for sentence, and you are talking about "they," but I have got "you" to think about. But go ahead.

The Defendant Healey: "Finally, they would require"—"they" referring again to the same institutions and forces—"of every citizen blind submission to the supreme test of their brand of loyalty—the willingness of each American to die in atomic war for their filthy profits.

"This is the real reason for the hysterical witch-hunt that sweeps America today. I cannot be less mindful that it is the reason why I am being haled before this court than I am that it is the reason for the mockery of a trial which goes on in Foley Square, New York."

The Court: You are here because you refuse to answer questions. If there is any doubt in your mind, Mrs. Healey—I mean, you appear to be a very intelligent woman—it is [284] not because "they," who these "theys" are, it is because you refuse to answer questions which I held you should answer. That is the reason you are here.

The Defendant Healey: And as I have indicated, your Honor, it is my opinion that the refusal to answer those questions is the only way to guarantee the Fifth Amendment to the Constitution.

That is the reason why our forefathers thought it was necessary to protect it in writing for the generations to come. They were conscious also, your Honor, of the fact that small groups of people can whip up for their own greed and their profits, because it is not a new thing in world history, the type of hysteria which is going on today.

The Court: Who is trying to whip up something for greed and profit in connection with this grand jury investigation? You keep talking about "they." After all, this is a grand jury investigation concerning the loyalty of government employees. Let us come back to that and keep on the subject.

The Defendant Healey: I wish that the government had been able to stick to the subject of loyalty of Federal employees, your Honor.

"Here, in this court, I am told that admission of a belief in and advocacy of economic theories repugnant to American monopolists will not place me in jeopardy. In New York, the same Department of Justice demands conviction and imprisonment of 12 [285] men for no other crime than the belief in and advocacy of those selfsame theories.

"I have always been willing to risk my personal safety for that cause which will result in the liberation of all mankind. I am a daughter of the working class, and as such I have tried, as best I might, to serve the working class. As long ago as 1930——"

The Court: Do you think you are the only daughter of the working class?

The Defendant Healey: No, I am not. I am very

proud of being only one of millions who believe in and serve that same working class.

The Court: A lot of other people are born of the working class besides you.

The Defendant Healey: Correct, sir.

The Court: Go ahead.

The Defendant Healey: "As long ago as 1930 that meant being imprisoned for participating in demonstrations in support of unemployment insurance, a demand that in those days was characterized as foreign agitation, as Red propaganda.

"I participated in the organization of migratory field workers, and for a number of years faced the vigilante actions of the Associated Farmers [286] and their police minions in many agricultural and cannery strikes. In 1934, in the Imperial Valley, I served six months in jail for the crime of aiding a strike of field workers who demanded 15 cents an hour, an increase of 5 cents over their prevailing wage.

"It was not only police terror, vigilante actions and jails which I met in that period of early industrial organizations. I slept on benches in union headquarters, and went without meals in order that every precious penny might go for union application cards, buttons and leaflets.

"During subsequent years when I serves as an International vice president of the CIO union and later as an International representative for another, I was continuing that same pattern of my life, to help in every way the ceaseless struggle of

the working class against the ruthless brutality of this economic system.

“I am the mother of a six-year-old child, and, like any mother, I am heartsick at the prospect of being forcibly separated from him. And yet, my child, young as he is, understands that because of my love and concern for him and the children of all mothers, I cannot and will not compromise now with [287] the forces that would deny him security and decent opportunity in life. I have tried to explain to him what was aptly said by Franklin Delano Roosevelt in 1941:

“‘What we face is nothing more or less than an attempt to overthrow and to cancel out the great upsurge of human liberty of which the American Bill of Rights is the fundamental document; to force the peoples of the earth, and among them the peoples of this continent, to accept again the absolute authority and despotic rule from which the courage and the resolution and the sacrifices of their ancestors liberated them many, many years ago.

“It is an attempt which could succeed only if those who have inherited the gift of liberty had lost the manhood to preserve it. But we Americans know that the determination of this generation of our people to preserve liberty is as fixed and certain as the determination of that earlier generation of Americans to win it.—

The Court: Are you still quoting?

The Defendant Healey: I am still quoting, your Honor.

The Court: Quoting Roosevelt is like quoting the Bible. You can get almost any kind of a quotation you want to from him. Proceed. [288]

The Defendant Healey: All great Americans in American history, when they represented the aspirations of the common people, could be quoted at any time.

“ ‘We will not, under any threat, or in the face of any danger, surrender the guarantees of liberty our forefathers framed for us in our Bill of Rights.

“ ‘We hold with all the passion of our hearts and minds to those commitments of the human spirit.

“ ‘We are solemnly determined that no power or combination of powers of this earth shall shake our hold upon them.’

That is the end of the quote.

“The economic system of the monopolists is cracking and sagging in new and increasing places. Unable to solve the contradictions inherent in this system, faced with another impending depression, the ruling class seeks to plunge our country into a new and even more terrible war——”

The Court: Which is the ruling class?

The Defendant Healey: The class which controls the means of production.

The Court: It seems to me like the Democrats did pretty well last time.

The Defendant Healey: Well, I think your Honor would find I am not speaking here about political parties, because [289] in my opinion the Democratic Party and the Republican Party represent that same class.



The Court: They are both wrong?

The Defendant Healey: I said they represent that same class which controls the means by which human beings live, who control the means by which human beings will be able to feed their children. The ruling class seeks to plunge our country into a new and even more terrible war, in an attempt to bolster their slumping markets and extend their exploitation over more and more peoples.

“Determined on a policy of world conquest, American monopolists are trying to guarantee that the people will be ready to die for this sordid cause. They cannot come before the people and openly proclaim the holiness of such sacrifice. Desperately they attempt to prevent the people from understanding the real situation. When Americans understand that it is not inevitable that their lives and their liberties should be destroyed in order to pile up new profits for these rules, they would refuse to be so sacrificed. Therefore, organizations and individuals who would expose the real causes of depressions and of war, must be destroyed by this ruling class. The brunt of their attack falls today upon the Communist Party. Tomorrow the existence of [290] free trade unions and all independent organizations become intolerable to the war-makers.”

The Court: Who are the war-makers?

The Defendant Healey: The war-makers, your Honor, are those who control the means of production in this country, who control the factories, the mines, the mills, the steamships—all those things.



The Court: They are the war-makers?

The Defendant Healey: That is correct.

The Court: I see.

The Defendant Healey: "A whole economic system is in the process of decay. History proclaims that once the process of decay has started a new system of society must replace the old. There is no way of saving that dying system. And all the stool-pigeon systems of a J. Edgar Hoover, all the maneuvers of a Harry Truman or his Republican counterparts, all the war attempts of a U. S. Steel Corporation will not save it."

The Court: Will not save what?

The Defendant Healey: The dying, outmoded economic system, your Honor.

The Court: You mean the United States of America?

The Defendant Healey: I do not, sir; I mean the capitalist system which is not synonymous with the United States of [291] America.

The Court: I see.

The Defendant Healey: As a matter of fact, I think your Honor will find another quote from the former President in which he says that democracy is not static, life is not static, all things change, progress and decay.

The Court: Yes, that is right.

The Defendant Healey: And after decaying, must give way to the new.

The Court: I remember that, Mrs. Healey, and I remember well that he once said that anybody who

was not a Socialist when he is 20 has something wrong in his heart; if he is still a Socialist when he is 40 there is something wrong with his head.

The Defendant Healey: I don't think that that was original with him.

The Court: I don't think so either.

The Defendant Healey: I think that was said many years before by those who would attempt to explain why renegades can flourish so in this kind of a system.

"Eventually and ultimately, this system, like all previous outmoded systems will be replaced by one designed to let man live secure and free.

"The jailing of five more people in Los Angeles will not change this fact." [292]

The Court: Mr. Margolis, do you have anything more to add?

Mr. Margolis: I have nothing to say.

The Court: Mrs. Healey, do you have anything more to add?

The Defendant Healey: No. [293]

\* \* \*

The Court: Is there any legal reason why sentence [294] should not be pronounced?

Mr. Margolis: None other than that which has previously been stated.

The Court: Mrs. Healey, I have listened to your statement with a great deal of interest. I have no doubt but what you believe it. But, as I have resolved its inferences and its absent statements, it has been an almost complete defiance to the whole

system of government and law and order. I would be remiss as a man if I did not recall that since last October 25th there has been an effort to ascertain who has kept the books and records of the Communist Party of Los Angeles, or the County Committee of the Los Angeles Communist Party, or whatever the name is. I would be unfaithful to my profession as a lawyer if I did not take cognizance of the fact that in this whole inquiry the purpose has been to ascertain who you are, where you live and where the books and records are. At last, after months of effort, you are finally produced. You refuse to produce any books and records, you refuse to answer any questions, you refuse to give any information and, finally, after you are found guilty after a very considerable deliberation you stand there and make a defiant statement which to me can be construed as nothing else but a defiance to the whole system and structure of government.

I suppose that it is unusual to impose any sentence of [295] any length of time upon a person for contempt of court, but I feel that I must impose upon you a sentence and judgment, which it now is, that you be committed to the custody of the Attorney General for a period of 18 months, and will stand committed.

Court is adjourned.

\* \* \*

Mr. Margolis: Your Honor please, at this time on behalf of the defendants Healey, Greenfield,

Newman and Appelman I hereby renew and make an application for bail pending appeal. I advise the court that we intend to prosecute the appeal diligently. We will order a transcript prepared immediately [296] and proceed as rapidly as the physical requirements of doing the job will permit. As a matter of fact, we are inclined to ask the Appellate Court if they haven't decided the other cases that are pending to consolidate these cases with the other ones, if we can get them up there quickly enough. We will try.

I say, your Honor, in view of the fact that in three other sets of cases the appellants, under very similar circumstances in cases raising similar questions of law and fact, bail has been granted. I submit that that warrants and requires the granting of bail in this case.

The Court: Counsel, I think I have indicated that I cannot see much difference between my views as I have expressed them—I have tried to analyze them as carefully as I can—and I do not see any substantial question on appeal.

Mr. Margolis: However, the Court of Appeals has ruled that there is.

The Court: That is their business.

Mr. Margolis: Your Honor please, that is the Court of Appeals, and they have that right to reach a different conclusion than you do. However, the precedent of the Court of Appeals is certainly binding upon this court, and here is precedent——

The Court: No, no. [297]

The Court: What is the number of the rule, counsel?

Mr. Margolis: I beg your pardon?

The Court: What is the rule number?

Mr. Margolis: On the right to grant bail?

The Court: Yes.

Mr. Carter: I think it is 46. I am not sure, your Honor.

Mr. Margolis: I don't know.

The Court: 46 is the right to bail generally and not on appeal.

Mr. Margolis: I don't remember the number, your Honor. I don't have the briefs here on that point. [299]

Mr. Carter: The appeal section starts in 30, if I recall, 33 or 34.

The Court: I have the rules here but I do not find the particular rule.

Mr. Margolis: Does your Honor have the criminal rules?

The Court: Yes, the criminal rules.

Mr. Margolis: It is 46(a)(2), your Honor. It is on page 40 of this document.

The Court: I have it. [300]

\* \* \*

Mr. Margolis: If your Honor please, let's assume that a decision came down exactly contrary to your Honor's ruling. Then your Honor would have——

The Court: That might be different.

Mr. Margolis: Then your Honor would be bound to follow that, no matter how much he believed

that that decision was wrong.

The Court: Just as was the situation in the Newman case. There there was a substantial question and I recognized it instantly and granted bail. But here I cannot see it. [301]

\* \* \*

Mr. Margolis: May I make this supplemental motion then, your Honor?

We intend to apply to the Appellate Court as quickly as possible for a stay there. No harm is going to be done to anybody. This is a criminal case. These are definite sentences. No harm will be done to anybody, particularly in view of what your Honor must recognize as the likelihood of what will happen here in view of what the Court of Appeals has done before, that we be given a reasonable time to apply to the Appellate Court for a stay and that bail be granted just for that reasonable time.

The Court: Do you object?

Mr. Goldschein: Yes, sir.

The Court: The United States Attorney objects to it.

Mr. Margolis: If your Honor please, is the United States Attorney to determine what should be done in this case?

The Court: I am just asking if he consented. If he did consent then nobody could object, but he does object to it.

Mr. Margolis: If your Honor please, it seems to me that [302] this should be determined upon the



question of whether or not it is a reasonable request.

Will Mr. Goldschein stand up here and say to this court that he doesn't think the Court of Appeals will grant bail?

Mr. Goldschein: Mr. Goldschein will say that. I am saying so now.

Mr. Margolis: Then it is a hypocritical statement, and he knows it.

Mr. Goldschein: I am the only honest man in the room.

Mr. Margolis: It is between you and me.

The Court: Counsel, Mr. Margolis and Mr. Goldschein, if you want to go up to the jury room privately we will let you two go up together, and you can settle your difficulties there, that kind that you are talking about now.

The point is whether or not I should grant bail, and that is determinative as to whether or not in my judgment there is a substantial question. Counsel, I cannot see it. Maybe unanimously the Appellate Court will disagree with me——

Mr. Margolis: They have already, your Honor.

The Court: ——but the United States Attorney objects to granting bail and I see no reason why these people, who have been found guilty of an offense, should be treated any differently than any other persons, hundreds and hundreds of whom come up before me, and are found guilty, and they think [303] they ought to have a right to appeal too.

Mr. Margolis: I venture, your Honor, that never in the history of court procedure has there been a denial of bail under these circumstances. I know

of no situation in which the precise question of law and fact has been determined to be substantial by the Appellate Court and the District Court has denied it.

The Court: Have you concluded?

Mr. Margolis: Yes, I am finished, your Honor.

The Court: The motion is denied. The defendants are committed. Court is adjourned.

(Whereupon, at 5:40 o'clock p.m., court was adjourned.) [304]

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### CERTIFICATE

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 30th day of June, A.D., 1949.

/s/ AGNAR WAHLBERG,

Official Reporter.

[Endorsed]: No. 12283. United States Court of Appeals for the Ninth Circuit. Dorothy Ray Healey, Max Appelman, Alvin Abram Averbuck, Elvador G. Greenfield, and Horace Morton Newman, Jr., Ap-

pellants, vs. United States of America, Appellee.  
Transcript of Record. Appeal from the United  
States Circuit Court for the Southern District of  
California, Central Division.

Filed August 9, 1949.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for  
the Ninth Circuit.

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In the United States Court of Appeals for the  
Ninth Circuit

No. 12283

DOROTHY RAY HEALEY,  
Appellant,  
vs.

UNITED STATES OF AMERICA,  
Appellee.

HORACE MORTON NEWMAN, JR.,  
Appellant,  
vs.

UNITED STATES OF AMERICA,  
Appellee.

ELVADOR G. GREENFIELD,  
Appellant,  
vs.

UNITED STATES OF AMERICA,  
Appellee.

MAX APPELMAN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

ALVIN ABRAM AVERBUCK,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS UPON WHICH  
APPELLANTS INTEND TO RELY ON  
APPEAL

1. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that under the Fifth Amendment to the Constitution of the United States appellants had the right to refuse to answer said questions on the grounds that answers to said questions might tend to incriminate them.

2. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that said questions and said orders of the Court were

directed to possible membership in or affiliation with, the Communist Party, a political organization, and said questions and the respective orders of the Court interfered with, obstructed, coerced and abridged their exercise of the rights and duties of political expression through speech, press, assembly, association and petition, in contravention of the First Amendment to the Constitution of the United States.

3. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that said questions and said orders of the Court were directed to the compulsory disclosure by appellants of their association or affiliation, or the absence thereof, with the Communist Party, a political organization, or officers or members thereof, and thereby violated the right of each appellant to privacy and silence in such matters, in contravention of the First, Fourth and Fifth Amendments to the Constitution of the United States.

4. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in adjudging and committing appellants, and in sentencing appellants for contempt for their refusal to answer said questions in that said questions and said orders of the Court were directed to the compulsory disclosure by appellants of their association or affiliation, or the absence

thereof, with the Communist Party, a political organization, or officers or members thereof, and thereby interfered with, obstructed, coerced and abridged their exercise of their governmental powers reserved to the people under the Ninth and Tenth Amendments to the Constitution of the United States.

5. The Court below erred in ordering appellants to answer the questions put to them before the Grand Jury and in sentencing appellants for contempt for their refusal to answer said questions in that said Grand Jury was not conducting a bona fide investigation but was carrying out a scheme, plan and design to harass and annoy appellants because they were believed to be members of the Communist Party, a political organization, and discriminately to apply the laws of the United States against appellants in such a manner as to impose punishment upon them solely and exclusively for the reason that they were believed to be members of said Communist Party.

6. The Court below erred in refusing to hear and to take evidence upon the appellants' challenge to the composition and selection of the Grand Jury.

7. The Court below erred and denied appellants due process of law in contravention of the Fifth Amendment to the Constitution of the United States in refusing to receive evidence upon, and refusing offers to prove facts supporting each of the points specified above.

8. The Court below erred and denied appellants



due process of law in contravention of the Fifth Amendment to the Constitution of the United States in quashing a subpoena directed to Tom C. Clark, Attorney General of the United States.

Dated: July 13, 1949.

MARGOLIS and McTERNAN,  
By /s/ JOHN T. McTERNAN,  
Attorneys for Appellants.

Service of the within Statement of Points Upon Which Appellants Intend to Rely on Appeal and receipt of a copy thereof is hereby admitted this 14th day of July, 1949.

JAMES M. CARTER,  
United States Attorney,  
Attorney for Appellee.  
By M. DeSHAINÉ.

[Endorsed]: Filed Aug. 9, 1949.

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[Title of Court of Appeals and Causes.]

### STIPULATION

It is hereby stipulated and agreed by and between appellants, by their counsel of record, and appellee, by its counsel of record, that those portions of the Record on Appeal herein referred to in paragraph numbered 3 of appellants' designation of Record on Appeal shall consist of the printed Transcript of Record in four volumes heretofore filed with the above entitled court in case No. 12217, Samuel Harry Kasinowitz, appellant, v. United States of

America, appellee, and consolidated cases, and case No. 12221, Lillian Adele Doran, appellant, v. United States of America, appellee, and consolidated cases; and that, said printed Transcript of Record being on file in the above entitled court, it will not be necessary for appellants or appellee to make any further or other filing thereof for the purposes of the appeal in the above entitled cause.

This stipulation shall be included in the record of the cause on appeal in this court and be incorporated in the printed Transcript of Record on said Appeal.

This stipulation is subject to the approval of the Court.

Dated: July 13, 1949.

MARGOLIS and McTERNAN,  
By /s/ JOHN T. McTERNAN,  
Attorneys for Appellants.  
/s/ JAMES M. CARTER,  
United States Attorney,  
Attorney for Appellee.

It Is Ordered that the above stipulation be approved and that the same be included in the record of the cause on appeal in this court and be incorporated in the printed Transcript of Record on said Appeal.

/s/ WILLIAM DENMAN,  
/s/ HOMER T. BONE,  
Judges, U.S. Court of Appeals  
for the Ninth Circuit.

[Endorsed]: Filed Aug. 11, 1949.

[Title of Court of Appeals and Causes.]

STIPULATION

It is hereby stipulated and agreed by and between appellants, by their counsel of record herein, and appellee, by its counsel of record herein, as follows:

1. The attached copy of the affidavit of Frank Slaby may be substituted in the Record on Appeal in lieu of the original affidavit of Frank Slaby, designated by appellants and referred to at pages 210 and 221 of the transcript of the proceedings of June 10, 11, 1949.

2. There may be physically incorporated in the printed Record on Appeal herein copies of Defendants' Exhibit "A," which are to be furnished by appellants, in order to save the expense of reprinting the same in the Record on Appeal.

3. This stipulation shall be included in the record of the cause on appeal in this court and be incorporated in the printed transcript of record on said appeal.

Dated at Los Angeles, California, this 4th day of August, 1949.

MARGOLIS and McTERNAN,  
By /s/ JOHN T. McTERNAN,  
Attorneys for Appellants.  
/s/ JAMES M. CARTER,  
United States Attorney,  
Attorney for Appellee.

So Ordered:

/s/ WILLIAM DENMAN,  
Chief Judge.

/s/ HOMER T. BONE,  
United States Circuit Judge.

[Endorsed]: Filed Aug. 11, 1949.

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State of California,  
City and County of San Francisco—ss.

AFFIDAVIT OF FRANK SLABY

Frank Slaby, being first duly sworn, deposes and says:

That pursuant to a subpoena served upon me, I appeared as a witness before the Grand Jury for the Northern District of California, Southern Division, in the Federal Building at San Francisco, California, on the afternoon of June 6, 1949. That after I was sworn to tell the truth, a series of questions were put to me by F. Joseph Donahue, Special Assistant to the Attorney General of the United States. That among the questions put to me by Mr. Donahue were, in substance and effect:

“Were you ever a member of the Communist Party?”

“Are you now a member of the Communist Party?”

With respect to each of these questions I stated that I refused to answer them on the ground that I might be incriminated.

After the questions were put and after I stated that I refused to answer them on the ground that I might be incriminated by answering them, Mr. Donahue said in substance and effect:

“Yes, it is quite true that he may incriminate himself and as far as I am concerned, Mr. Slaby may be excused.”

Thereupon, I was excused and left the Grand Jury Room.

The quotations above are the substance and effect of what transpired and are not necessarily the exact or literal words. The fact is perfectly clear in my memory that the questions with respect to present and past membership in the Communist Party were asked of me, that I refused to answer them on the ground that I might be incriminated, and that Mr. Donahue agreed that I might be incriminated by answering them and that I was excused from further testifying.

FRANK SLABY.

Subscribed and sworn to before me this 8th day of June, 1949.

[Seal]

AGNES QUAVE,

Notary Public in and for the City and County of San Francisco, State of California.

My Commission Expires January 14, 1953.

[Title of Court of Appeals and Causes.]

## DESIGNATION OF RECORD ON APPEAL

The Clerk will please prepare the record on appeal and include therein the following:

1. The following Reporter's Transcripts:

(a) from the proceedings on May 26, 1949:

Page 1, line 1—Page 15, line 20;

Page 37, line 20—Page 50, line 14;

Page 58, line 20—Page 80, line 11;

(b) from the proceedings on June 9, 1949:

Page 4, line 1—Page 13, line 4;

Page 37, line 17—Page 43, line 25.

Page 57, line 11—Page 59, line 5;

Page 98, line 25—Page 118, line 25;

Page 123, line 12—Page 159, line 4;

(c) from the proceedings on June 10 and 11, 1949:

Page 167, line 2—Page 195, line 7;

Page 209, line 17—Page 210, line 25;

Page 212, line 9—Page 215, line 4;

Page 294, line 8—Page 309, line 25;

(d) from the proceedings of June 14, 1949 (In Re Max Appelman):

Page 3, line 1—Page 16, line 20;

Page 19, line 14—Page 21, line 25;

Page 22, line 19—Page 23, line 4;

(e) from the proceedings of June 14 and 23, 1949:

Page 5, line 1—Page 11, line 23;



Page 15, line 19—Page 18, line 1;

Page 19, line 15—Page 20, line 6;

Page 21, line 20—Page 22, line 6;

Page 24, line 1—Page 100, line 9;

(f) from the proceedings of June 24, 28 and 29,  
1949:

Page 141, line 1—Page 143, line 19;

Page 248, lines 10-17;

Page 255, lines 19-24;

Page 264, line 17—Page 265, line 7;

Page 266, lines 6-17;

Page 278, line 19—Page 279, line 1;

Page 294, line 25—Page 296, line 6;

Page 296, line 21—Page 297, line 24;

Page 302, line 6—Page 304, line 12;

2. The following exhibits:

Respondents' Exhibit A, June 9, 1949.

Respondents' Exhibit B, June 9, 1949, Idf.

Respondents' Exhibit C, June 9, 1949, Idf.

Respondents' Exhibit D, June 9, 1949, Idf.

Respondents' Exhibit E, June 9, 1949, Idf.

Respondents' Exhibit F, June 9, 1949, Idf.

Government's Exhibit 1, June 10, 1949.

Government's Exhibit 2, June 10, 1949.

Government's Exhibit 3, June 10, 1949.

Government's Exhibit 4, June 10, 1949.

Government's Exhibit 5, June 10, 1949.

Government's Exhibit 6, June 10, 1949.

Government's Exhibit 7, June 10, 1949.

Defendants' Exhibit A.

Defendants' Exhibit B.

3. All those portions of the record designated on appeal and constituting the printed Transcript of Record on Appeal in each of the following cases:

(a) United States v. Frank Edward Alexander, and others, Nos. 8786-PH through 8795-PH, numbered in the United States Court of Appeals for the Ninth Circuit as No. 12081.

(b) United States v. Samuel Harry Kasinowitz, and others, Nos. 20403, 20404 and 20405, and numbered in the United States Court of Appeals for the Ninth Circuit as No. 12217.

(c) United States v. Lillian Adele Doran, No. 8796-PH; Phillip Bock, No. 8827-PH; Irving Caress, No. 8839-PH; Robert Blair, No. 8842-PH; Merle Brodsky, No. 8874-PH; Frank Spector, No. 9321-PH, and numbered in the United States Court of Appeals for the Ninth Circuit as No. 12221.

4. The Presentments for each defendant.

5. Affidavit of Frank Slaby.

6. The Judgment and Sentence of the court for each defendant.

7. The Notice of Appeal for each defendant.

8. The Order of the Court of Appeals Staying Proceedings and Admitting Appellants to Bail.

9. This Designation.

Dated: July 13, 1949.

MARGOLIS and McTERNAN,

By /s/ JOHN T. McTERNAN,

Attorneys for Appellants.

Service of the within Designation of Record on Appeal and receipt of a copy thereof is hereby admitted this 14th day of July, 1949.

JAMES M. CARTER,

United States Attorney,

Attorney for Appellee.

By M. DeSCHAINÉ.

[Endorsed]: Filed Aug. 9, 1949.

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[Title of Court of Appeals and Causes.]

COUNTERDESIGNATION OF RECORD  
ON APPEAL

Comes now the appellee in the above-entitled matters and files this its Counterdesignation of Record on Appeal, and requests the Clerk to include in the Record on Appeal the following:

A

Reporter's Transcript of Proceedings of  
May 26, 1949

Page 15, lines 21 through page 16, line 25, inc.

Page 18, lines 1 through 14.

Page 19, lines 2 through 25.

Page 20, lines 1 through 25.

## B

Reporter's Transcript of Proceedings of  
June 9, 1949

Page 13, lines 5 through 25.

Page 14, line 1 through page 16, line 11, inc.

Page 44, line 11 through page 57, line 9, inc.

Page 75, line 16 through page 78, line 13, inc.

Page 98, line 6 through 24.

## C

Reporter's Transcript of Proceedings of  
June 10 and 11, 1949

Page 219, line 23 through page 220, line 4, inc.

Reporter's Transcript of Proceedings of  
June 14, and 23, 1949

Page 19, lines 1 through 14.

Page 20, line 7 through page 22, line 3, inc.

Page 25, line 1 through page 71, line 18, inc.

Page 96, line 4, through page 99, line 25, inc.

Page 106, line 24 through 25.

Page 107, line 1 through page 110, line 12, inc.

## D

Reporter's Transcript of Proceedings of  
June 24, 28 and 29, 1949

Page 279, line 5 through page 293, line 6, inc.

Page 299, line 14 through page 300, line 9, inc.

Page 301, line 14 through line 24.

## E

This Designation,

Dated: July 25, 1949.

JAMES M. CARTER,

United States Attorney.

ERNEST A. TOLIN,

Chief Asst. U. S. Attorney.

NORMAN W. NEUKOM,

Chief, Criminal Division,

Asst. U. S. Attorney.

ROBERT J. KELLEHER,

Asst. U. S. Attorney.

Attorneys for Appellee.

By /s/ ROBERT J. KELLEHER.

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[Title of Court of Appeals and Causes.]

AFFIDAVIT OF SERVICE BY MAIL

State of California,

County of Los Angeles—ss.

Beulah Baxter Miller, being first duly sworn, deposes and says:

That she is a citizen of the United States and a resident of Los Angeles County, California; that her business address is 600 Post Office and Court House, Los Angeles, California; that she is over the age of eighteen years and is not a party to the above-entitled action;

That on July 25, 1949, she deposited in the United States Mails in the Post Office at 312 No. Spring Street, Los Angeles, California, in the above-entitled action, in an envelope bearing the requisite postage, a copy of Counterdesignation of Record on

Appeal addressed to Messrs. Margolis and McTernan, 112 West Ninth Street, Los Angeles, 15, California, their last known address, at which place there is a delivery service by United States Mails from said post office.

/s/ BEULAH BAXTER MILLER.

Subscribed and sworn to before me, this 25 day of July, 1949.

EDMUND L. SMITH,

Clerk U. S. District Court.

[Seal] By /s/ TOM A. McCART,

Deputy.

[Endorsed]: Filed July 27, 1949.